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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. ~~484.~~ ~~266~~ 83

CATHARINE A. RODD, ADMINISTRATRIX OF THE SUCCESSION OF EDWARD W. RODD, ET AL, APPELLANTS,

vs.

HENRY G. HEARTT, D. C. McCAN, AND AL., AND THE PROCEEDS OF THE SALE OF THE STEAMER LOTAWANNA.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF LOUISIANA.

FILED NOVEMBER 26, 1872.

The "Lottawanna" 1874

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1 UNITED STATES OF AMERICA:

United States circuit court fifth circuit and district of Louisiana.

WILLIAM DOYLE & AL.
vs.
ST'R LOTAWANA. } No. 6718.

Transcript from United States district court.—Filed April 22d, 1872.

WILLIAM DOYLE & AL.
vs.
STEAMER LOTAWANA. } No. 9732.

Libel and bills.—Filed June 10th, 1871.

To the Honorable E. H. Durell, judge of the United States district court for the district of Louisiana:

The libel of W'm Doyle, a mariner residing in Pittsburg, Pennsylvania, and of W'm Dixon, a mariner, residing , against the steamboat Lotawana, whereof H. J. McComas late was master,
2 her tackel, apparel, machinery, and furniture now lying in the port of New Orleans, within the admiralty and maritime jurisdiction of the United States, and against all persons claiming any interest in said vessel, in a cause of subtraction of wages, civil and maritime, alleges as follows:

1st. That the steamboat Lotawana, whereof H. J. McComas late was master, being in the port of New Orleans, and designed on a voyage up Red River to Jefferson, in the State of Texas, engaged in commerce and navigation, the master of said boat shipped and hired your libellant, W'm Doyle, on the 25th of February, 1871, to serve on board of said boat as first and chief engineer thereof, with a complete and entire control and management of the entire engineer's department of the said boat at the rate ot two hundred and fifty dollars per month wages; and also shipped and hired your libellant W'm Dixon on the 23rd of May, 1871, at New Orleans, to serve as carpenter on said boat, at the
3 rate of one hundred and ten ($110) dollars per month wages.

2d. That both of your libellants rendered themselves on board and into the service of said boat on the dates of their respective shipments, as stated above, and were obedient to all the lawful commands of the master and other officers of said boat, and continued in her employ until the 9th June, 1871, and well and truly deserve the wages now due to them by said boat, as set forth in their respective bills annexed and made part hereof.

3rd. That said boat left the port of New Orleans for Jefferson, Texas, on her first voyage, with libellant W'm Doyle on board, on the 27th of February, and continued making voyages between said ports, carrying freight and passengers for hire, and making, on an average, about two trips per month, until the 16th of May, 1871, when she laid up for a time to repair, and libellant W'm Doyle's wages were reduced to $4 per day.

4 4th. That there is now due by said steamboat Lotawana, to W'm Doyle, the sum of two hundred and seventy-four dollars, ($274,) being the balance for wages as first engineer of said boat; and to libellant W'm Dixon, the sum of sixty-two $\frac{32}{100}$ dollars, for wages as

carpenter of said boat, all of which will more fully appear by libellants' respective bills, annexed and made part of this libel.

5th. That all and singular the premises are true, and within the admiralty and maritime jurisdiction of the United States and of this honorable court.

Wherefore, libellants pray that process in due form of law and according to the course of this honorable court in causes of admiralty and maritime jurisdiction may issue against the said steamer Lotowana, her tackel, apparel, machinery, and furniture, and that all persons claiming any interest in said vessel be cited to answer the matters aforesaid, and after due proceedings had that this honorable court will
5 be pleased to decree the payment of their respective claims, with all costs of suit, and that said steamboat Lotawana, her machinery, &c., be condemned and sold to pay the same, and libellants pray for such other and further relief and remedy as the nature of their case may require, and this court is competent to give.

(Signed) BENTINCK EGAN, *Proctor.*
(Signed) W'M DOYLE.

Sworn to and subscribed before me this 10th June, 1871.
(Signed) K. LOEW,
U. S. Com'r.

(Signed) W'M DICKSON.
Sworn to and subscribed before me this 12th , 1871.
(Signed) CH'S CLAIBORNE,
U. S. Com'r.

Let admiralty process issue as prayed for.
June 10th, 1871.
(Signed) K. LOEW, *D'y Clk.*

Bills annexed to libel.

6 *Steam. Lotawana & owners, Dr. to W'm Doyle for service as chief engineer.*

Balance of wages due May the 15th, 1871	$170 00
Twenty-six days' services at $4 per day	104 00
	$274 00

NEW ORLEANS, *9th June*, 1871.

(On reverse:)
Shipped at New Orleans, 25th of February, as chief engineer, at $250.00 per month.

NEW ORLEANS, *June 9th*, 1871.

Steamer Lotawana to W'm Dixon, Dr.

For wages as carpenter from the 23d May to 9th of June, inclusive, at $110 per month, say 17*th* days	$62 32

Admiralty-warrant and marshal's return.—June 10th, 1871.

The President of the United States of America to the marshal of the district of Louisiana or his lawful deputy, greeting:

You are hereby commanded forthwith to seize and into your possession take the steamer Lotawana, her tackel, apparel, &c., now libelled by W'm Doyle and others for the causes set forth in the libel now pending in district court of the United States for the district of Louisiana; that you do cite and admonish the owner or owners, and all and every other person or persons having or pretending to have any right, title, or interest in or to the same, to be and appear before a district court of the United States for the district aforesaid, to be holden at the city of New Orleans, on or before the third Monday from the service hereof, to show cause, if any they have or can, why the said steamer, &c., should not be condemned and sold agreeably to the prayer of libellants; and how you have executed this warrant, that you make return according to law.

Witness the Honorable Edward H. Durell, judge of the said court, at New Orleans, this 10th day of June, 1871, and the 95th year of the Independence of the United States.

(Signed) K. LOEW, *D'y Clk.*

Marshal's return.

Received, June 10th, 1870, by the U. S. marshal, and on the same day, month, and year seized the steamer Lotawana, her tackel, &c.

Served warrant on Russell Isham, mate on board, appointed C. Becker and L. Estramps keepers and published monition in the New Orleans Republican on June 15th, 21st, 27th, and July 1st.

(Signed) JOHN FAHY,
D'y Marshal.

JULY 3RD, 1871.

Marshal's monitions, (annexed.)

W'M DOYLE ET ALS.
vs.
STEAMER LOTAWANA, HER TACKLE &C. } No. 9732.

In the U. S. district court, district of Louisiana.

In obedience to an admiralty warrant to me directed in the above-entitled suit, I have seized and taken into my possession the steamboat Lotawana, her tackel, &c., now libelled by W'm Doyle et als. for the causes set forth in the libel now pending in the district court of the United States.

And I do hereby cite and admonish the owner or owners thereof, and all and every person or persons having, or pretending to have, any right, title, or interest in or to the same, to be and appear at a district court of the United States for the district aforesaid, to be holden at the city of New Orleans on or before the first Monday of July, 1871, to show cause, if any they have or can, why the said steamboat Lotawana, her tackle, &c., should not be condemned and be sold agreeably to the prayer of libellants.

United States marshal's office, New Orleans, June 10th, 1871.

(Signed) S. B. PACKARD,
United States Marshal.

JUNE 15, 21, 27, 'Y 1.

Libel of intervention of Henry W. Gribble, filed June 10th, 1871.

10 W'M DOYLE ET ALS. *vs.* ST'R LOTAWANA. } No. 9732.

To the Honorable E. H. Durell, judge of the United States district court for the district of Louisiana:

The libel of intervention of Henry W. Gribble, late mariner on the steamer Lotawana, and residing in the city of New Orleans, against said steamer Lotawana, whereof H. J. McComas late was master, her tackle, apparel, machinery, and furniture, now lying in the port of New Orleans, and under seizure by virtue of admiralty process issued from this honorable court in the above cause, and against all persons claiming any interest in said vessel, in a cause of wages, civil and maritime, alleges as follows:

That the steamer Lotawana, whereof H. I. McComas late was master, was, on the 27th of April, 1871, in the port of New Orleans, and de-
signed on a voyage to Jefferson, in the State of Texas, engaged
11 in commerce and navigation, when the master of said boat shipped and hired your libellant to serve on board of her as 2d clerk, at the wages of $100 per month.

2d. That in compliance with his shipment as above, your libellant rendered himself on board and into the services of said steamboat Lotawana on the 27th of April, and continued on her in said capacity up to and including the 15th of May, 1871, when libellant was discharged in New Orleans without the payment of his wages, making 19 days' services, at $100 per month.

3rd. That there is now due to libellant by said steamer Lotawana, the sum of sixty-three $\frac{33}{100}$ dollars ($63.33) for wages as second clerk of said boat from the 27th of April to the 15th May, 1871, as set forth in his bill annexed and made part of this bill.

4th. That during the whole time libellant served on board of said boat, he was obedient to all the lawful commands of the master
12 and other officers of said boat, and well and truly deserves the wages herein claimed.

5th. That said steamer Lotawana is now under the seizure of admiralty process issued from this honorable court in the above cause.

5th. That all and singular the premises are true.

Wherefore libellant prays that this libel of intervention be filed, and that process in due form of law and according to the course of this honorable court in causes of admiralty and maritime jurisdiction may issue against the said steamer Lotawana, her tackle, &c., &c., and that all persons claiming any interest in said vessel may be cited to answer the matters aforesaid, and after due proceedings had, that this honorable court will be pleased to decree the payment of libellant's aforesaid claim, with costs, and libellants pray for such other and further relief and remedy as the nature of the case may require and this court is competent to give.

(Signed) BENTINCK EGAN, *Proctor.*
(Signed) H. W. GRIBBLE.

13 Sworn to and subscribed before me June 10th, 1871.
(Signed) CHARLES CLAIBORNE,
U. S. Com'r.

Bill annexed.

Steamer Lotowana & owners, to Henry W. Gribble Dr.

To services rendered as 2d clerk, from April 27th to May 15th, 19 days, at $100 per month..... $63 33

Libel of intervention of John Hennessy, with bills.—Filed June 13th, 1871.

WM DOYLE ET ALS. *vs.* ST'R LOTAWANA. } No. 9732

T' the Honorable E. H. Durell, judge of the United States district court for the district of Louisiana.

The libel of intervention of John Hennessy, residing and doing business in the city of New Orleans, as copper, tin, and sheet-iron worker, against the steamboat Lotawana, now laying in the port of New Orleans, within the jurisdiction of this honorable court, and under
14 seizure in the above cause, whereof H. I. McComas late was master, her tackel, apparel, machinery, and furniture, and against all persons claiming any interest in said vessel, in a cause of contract, civil and maritime, alleges as follows:

1st. That the steamboat Lotawana, whereof H. I. McComas late was master, at various dates in the year 1871 engaged in commerce and navigation between the ports of New Orleans, on the Mississippi, and Jefferson, in the State of Texas, making, on an average, two trips per month.

2d. That, on various dates in the said year 1871, said boat being in the port of New Orleans, designed on her aforesaid voyages and in need of various articles of copper, brass, tin, and sheet-iron, and also repairs, libellant, at the special instance and request of the master of said boat, sold and delivered her the articles mentioned and described in the detail-bills annexed and made part hereof, and also per-
15 formed the work described in said bills.

3rd. That said boat is now justly and truly indebted to your libellant in the full sum of four hundred and nine $\frac{26}{100}$ dollars, ($409.26,) for materials sold to and *and* work performed for said steamer Lotawana at the dates described in the bills annexed; that the prices charged for the same are just and reasonable, and the same were absolutely and indispensably necessary to enable said boat to prosecute her aforesaid voyages.

4th. That said boat is now under seizure and about to be sold by virtue of admiralty process issued from this honorable court in the above cause.

5th. That all and singular the premises are true and within the jurisdiction of the United States and of this honorable court.

Wherefore libellant prays that this libel of intervention be filed; that process in due form of law and according to the course of this
16 honorable court in causes of admiralty and maritime jurisdiction may issue against the said steamer Lotawana, her tackel, &c., &c., and that all persons claiming any interest in said vessel may be cited to answer the matters aforesaid, and, after due proceedings had, that this honorable court will be pleased to decree the payment of libellant's aforesaid claim and costs, and libellants pray for general relief.

(Signed) BENTINCK EGAN, *Proctor.*
(Signed) JOHN HENNESSEY.

Sworn to and subscribed before me this 13th June, 1871.
(Signed) K. LOEW, *U. S. Comm'r.*

Detailed bill annexed; total amount, four hundred and nine $\frac{26}{100}$ dollars, ($409.26.)

Libel of intervention of Russell Isham, Joseph G. Parker, S. B. Henderson, Henry Meyer, Benjamin Williams, F. R. West, for wages, filed June 14th, 1871.

WILLIAM DOYLE ET AL.
vs.
ST'R LOTAWANA. } No. 9732.

17 To the Honorable E. H. Durell, judge of the U. S. district court, for the fifth district of Louisiana.

The libel of intervention of Russell Isham, Joseph G. Parker, S. B. Henderson, Henry Meyer, Benjamin Williams, residing in the city of New Orleans, and late mariners on the steamer Lotawana, and of F. W. Rust, also a resident of New Orleans, against the steamboat Lotawana, whereof H. I. McCamos late was master, her tackle, apparel, machinery, and furniture, now lying in the port of New Orleans, and under seizure by virtue of admiralty process issued from this honorable court in the above cause, and against all persons intervening for their interest therein, in a cause of subtraction of wages, civil and maritime, alleges as follows:

1st. That the steamboat Lotawana, whereof H. I. McCamos late was master, was in the months of January, February, March, April,
18 and May, 1871, engaged in the business of commerce and navigation between the ports of New Orleans, on the Mississippi River, and Jefferson, Texas, and various intermediate points, carrying freight and passengers for hire, and making on an average about two round trips per month—that is, from and to New Orleans.

2d. That said steamer being in the port of New Orleans, and designed on her aforesaid voyages, the master of said vessel shipped and hired your libellants to serve on board of said steamer Lotawana, at the dates, in the capacity, and for the wages hereinafter stated, to wit: Russell Isham shipped in New Orleans on the 14th of January, 1871, as mate, at the rate of $125 per month, which were reduced on about the 1st of May, to $100 per month, and continued on board of her in that capacity until the 10th of June, 1871.

Joseph G. Parker shipped at New Orleans on the 26th Febru-
19 ary, 1871, as steward, at the rate of $65 per month, and continued on her in that capacity until the 20th of May, 1871.

S. B. Henderson shipped at New Orleans on the 17th of May, 1871, as watchman, at the rate of $60 per month, and continued on her in that capacity until the 6th of June, 1871, having been previously employed on her as porter.

Henry Meyer shipped on her on the 22d of May, 1871, as deck-hand, at the rate of $35 per month for 9 days, and continued on her until the 10th of June, 1871, in that capacity.

Benjamin Williams shipped on her in the port of New Orleans on the 18th May, and as striker, at the rate of $60 per month, and continued on her in that capacity until the 2d June, 1871.

F. W. Rust, for boarding the crew at the request of the master, while

the boat was undergoing repairs, four men at $5 per week, each
20 man being two weeks, making forty-two dollars.

3rd. That libellants rendered themselves on board, and into the services of said steamer Lotawana, on the dates of their respective shipments, as stated above, and continued to serve on board of her from the time of shipment in the several capacities, and at the rate of wages and during the time stated above, and were obedient to all the lawful commands of the master and other officers of said boat, well and truly performing the duties on board of said boat for which they had shipped, and that they well and truly deserve the wages hereinafter claimed by them from said boat.

4th. That the said steamboat Lotawana is now justly and truly indebted to your libellants in the amounts set forth opposite their respective names, being the balance due them for wages on said boat, to wit:

Russell Isham, two hundred and seventy-eight $\frac{28}{100}$ dollars for wages as mate.

21 Joseph G. Parker, fifty-five $\frac{55}{100}$ dollars, for balance due as wages as steward.

S. B. Henderson, one hundred and five $\frac{48}{100}$ dollars, balance due as wages as watchman.

Benjamin Williams, thirty dollars for wages as striker.

F. W. Rust, forty-two dollars for boarding the crew of the boat from 17th May to 1st of June 1872, two weeks and two meals.

5th. That said steamer Lotawana is now under seizure, and about to be sold by virtue of admiralty process issued from this honorable court in the above cause.

6th. That all and singular the premises are true, and within the admiralty and maritime jurisdiction of the United States and of this honorable court:

Wherefore libellants pray that this libel of intervention be filed, and that process, in due form of law and according to the course of
22 this honorable court in causes of admiralty and maritime jurisdiction, may issue against the said steamer Lotawana, her tackle, &c., &c., and that all persons claiming any interest in said vessel may be cited to appear and answer the matters aforesaid, and, after due proceedings had, that this honorable court will be pleased to decree the payment of libellant's respective claims, with privilege, and that said boat be condemned and sold, to pay the same, and libellants pray for all costs of suit and for general relief.

(Signed) BENTINCK EGAN, *Proctor.*
(Signed) RUSSELL ISHAM.
(Signed) JOSEPH G. PARKER.
(Signed) S. B. his + mark. HENDERSON.
(Signed) HENRY MEYER.
(Signed) FREDERICK W. RUST.

Sworn and subscribed before me this 14th June, 1871.
(Signed) CH'S CLAIBORNE,
U. S. Com'r.

23 *Libel of intervention of E. Conery, Son and Co. with bills filed June 15th, 1871.*

W'M DOYLE ET AL. *vs.* ST'R LOTAWANA. } No. 9732.

To the Honorable E. H. Durell, judge of the United States district court for the district of Louisiana:

The libel of intervention of E. Conery, Son & Co., a commercial firm residing in this city, and composed of Edward Conery, J. H. Mango, and Edward Conery, jr., against the steamer Lotawana, whereof H. J. McComas late was master, now lying within the port of New Orleans, and under seizure by virtue of admiralty process issued from this honorable court in the above cause, her tackel, apparel, machinery, and furniture, and against all persons intervening for their interest in said vessel in a cause of contract, civil and maritime, alleges as follows:

1st. That the steamboat Lotawana, whereof H. J. McComas
24 late was master, was, in the month of February, March, April, and May, 1871, engaged in the business of commerce and navigation between the ports of New Orleans, on the Mississippi River, and Jefferson, in the State of Texas, and various intermediate ports, making an average about two trips per month from and to New Orleans, carrying freight and passengers for hire.

2d. That said steamboat Lotawana being in the port of New Orleans on various dates in the said months of February, March, April, and May, 1871, and designed on her aforesaid voyages and in need of various supplies and stores for her passengers, officers, and crew, your libellants, at the special instance and request of the master of said vessel, furnished and supplied her with stores, &c., &c., on various dates in said months, all of which will more fully appear by reference to the detail-bill annexed and made part of this libel.

25 2d. That said steamboat Lotawana is now justly and truly indebted to your libellants in the full sum of two thousand $\frac{52}{100}$ dollars, ($2,000.52,) with 5% interest from 31st of May, 1871, for supplies sold and delivered by libellants to said steamer Lotawana, as set forth in the detail-bills annexed and made part of this libel of intervention; that said supplies were absolutely and indispensibly necessary to enable said boat to prosecute her aforesaid voyages, and were used on board of said boat; that the prices charged for the same are just and reasonable and agreed upon at the time, and the credit for the same was given to the boat, steamer Lotawana.

4th. That said boat is now under seizure and about to be sold by virtue of admiralty process issued from this honorable court in the above cause.

5th. That all and singular the premises are true, and within
26 the admiralty and maritime jurisdiction of the United States and of this honorable court.

Wherefore libellants pray that this libel of intervention be filed; that process in due form of law and according to the course of this honorable court in causes of admiralty and maritime jurisdiction may issue against the said steamer Lotawana, her tackle, machinery, and furniture, and that all persons claiming any interest in said vessel may be cited to answer the matters aforesaid, and after due proceedings had, that this honorable court will be pleased to decree the payment of libellant's aforesaid claim, with interest and costs, and with privilege on said boat or her proceeds; and libellants pray for such other and further relief and remedy as the nature of their case may require and this court is competent to give.

(Signed) BENTINCK EGAN, *Proctor.*
(Signed) J. H. MINGE.

27 Sworn to and subscribed before me this 15th June, 1871.
(Signed) CHA'S CLAIBORNE,
U. S. Com'r.

Order to sell—minutes June 5th, 1871.

W'M DOYLE ET AL. *vs.* ST'R LOTAWANA. } No. 9732.

On motion of B. Egan, proctor for libellants, and on suggesting that the steamer Lotawana, under seizure, is perishable and expensive to keep; that no person has made appearance and claimed the boat, and that a special sale would be to the advantage of all parties interested.

Ordered that said steamer be sold by the marshal after 10 days advertisement, and that the proceeds be deposited in the registry, subject to the order of court.

Intervention of Ruth and Larkin Filed June 16th, 1871.

WILLIAM DOYLE ET AL. *vs.* ST'R LOTAWANA. } No. 9732. In admiralty.

28 To the judge of the district court of the United States for the district of Louisiana.

John Ruth and Larkin, who compose the firm of Ruth and Larkin, boilermakers of the city of New Orleans, exhibit this their libel against the steamboat Lotawana, now being in the custody of the marshal of the district aforesaid under arrest, in virtue of a warrant issued out of this honorable court at the suit of W'm Doyle, of the city of New Orleans, in a cause of subtraction of wages, civil and maritime, her boats, tackel, apparel, and furniture, and against all other persons lawfully intervening for their interest therein, in a cause of contract, civil and maritime.

And therefore, the said John Ruth and Larkin, doth allege and articulately propound as follows:

First. That at the times mentioned in the bills of items hereto
29 annexed and made part hereof, the said steamboat being in the port of New Orleans, and designed on voyages or trips on the Mississippi and Red Rivers and tributaries, the said master of the said steamboat represented to the libellants that said steamboat stood in need of the repairs mentioned in the bill of items hereto annexed and made part hereof, in order to render her competent and seaworthy, and requested the libellants to make said repairs; that in pursuance to said representation and request, the libellants undertook to repair and did repair said steamboat at the respective dates mentioned in said bills, by putting a patch on the end of the flue of the boiler, and by putting one sheet in the boiler, which said repairs amount in all to the sum of one hundred and five dollars.

Second. That said repairs were so made by the libellants on the credit of the said steamboat as well as of the owners thereof, and were
30 suitable, proper, and necessary for the purpose of enabling the said steamboat to make her voyages or trips in safety.

Third. That all and singular the premises are true.

Wherefore the libellants pray that process of monition may issue to

the marshal of the district aforesaid, commanding him to cite and admonish all persons having or pretending to have any right, title, or interest in said steamboat Lotawana, her boats, tackle, apparel, and furniture, to appear before this honorable court on the day of or such other day to be inserted in said monition as the court shall direct, then and there to answer the libellant in the premises, according to the course of courts of admiralty and the rules and practice of this honorable court in civil causes of admiralty and maritime jurisdiction and that this honorable court will pronounce for the claim aforesaid, and decree the same to be paid with cost.

(Signed) R. DE GRAY, *Proctor.*

31 (bis) *Bills annexed.*

NEW ORLEANS, *April 22d*, 1871.

Steamer Lotawana, to Ruth & Larkin, Dr.

[Boiler-makers & blacksmiths 21 to 27 Julia, cor. Front Levee street. Office Fulton street, cor. Julia.]

To putting one patch on the end of flue..... $25 00

(Duplicate to original bill.)

NEW ORLEANS, *May 30th*, 1871.

Steamer Lotawana, to Ruth & Larkin, Dr.

To putting one sheet on boiler..... $80 00

(Duplicate of original bill.)

(Signed) W'M DOYLE, *Engineer.*

Libel of intervention of Thomas Forester, with two bills—Filed June 16th, 1871:

W'M DOYLE ET AL. *vs.* ST'R LOTAWANA. } No. 9732.

To the Honorable E. H. Durell, judge of the United States district court for the district of Louisiana:

The libel of Thomas Forester, residing and doing business in the
32 city of New Orleans as a brick-layer and furnace-builder, against the steamer Lotawana, whereof H. J. McComas late was master, now lying in the port of New Orleans, and under seizure in the above cause, and against all persons claiming any interest in said vessel, in cause of contract civil and maritime, alleges as follows:

1st. That the steamboat Lotawana, whereof H. I. McComas late was master, was in the months of April & May, 1871, engaged in the business of commerce and navigation between the port of New Orleans, on the Mississippi River, and Jefferson, in the State of Texas and intermediate points between said places, making on an average about two trips per month from and to New Orleans.

2d. That on the 28th of April, and also on the 30th of May, 1871, said boat being in the port of New Orleans, and designed on her aforesaid voyages, the master of said boat employed your libellant to repair the fire-bed and the brick-work around her boilers, and furnished the materials and labor necessary for the work, and that libellant's bill for
33 said work and materials furnished in April amounted to $128.50, making the total amount of his said two bills for labor and mate-

rials furnished by him in making repairs to said boat amount to the sum of one hundred and seventy-two $\frac{75}{100}$ dollars, all of which will more fully appear by reference to the bills annexed and made part hereof.

3rd. That said steamboat Lotawana is now justly indebted to your libellant in the full sum of ($172.75) one hundred and seventy-two $\frac{75}{100}$ dollars, for labor and materials furnished by libellant at the special instance and request of the master of said boat, in working to her brick-work and furnace, on the dates mentioned in the bills annexed; that the prices charged for the same are just and reasonable, and libellant's bills for the same have been approved by the engineer of the boat under whose supervision the work was done, and that said work was absolutely and indenspensibly necessary to enable said boat
34 to prosecute her aforesaid voyages, and the credit for the same was given to the boat alone.

4th. That said boat is now under seizure, and about to be sold by virtue of admiralty process, issued from this honorable court.

5th. That all and singular the premises are true and within the admiralty and maritime jurisdiction of the United States, and of this honorable court.

Wherefore libellant prays that this libel of intervention be filed, and that process in due form of law, and according to the course of this honorable court in cases of admiralty and maritime jurisdiction, may issue against the said steamer Lotawana, her tackle, &c., &c., and that all persons claiming any interest in said vessel may be cited to answer the matters aforesaid, and after due proceedings had that this honorable court will be pleased to decree the payment of libellant's aforesaid claim with costs, and privilege on said boat or her proceeds. And libellant prays for general relief.

35 (Signed) BENTINCK EGAN, *Proctor.*
(Signed) THOMAS FORESTER.

Sworn to and subscribed before me this 16th June, 1871.
(Signed) K. LOEW, *D'y Clk.*

Bills annexed.

NEW ORLEANS, *Ap'l 28th*, 1871.

St'r Lotawana to Thomas Forester, Dr.

[Brick-layer & furnace-builder, Algiers.]

150 fire-brick, @ 6c	$9 00
75 boiler " " 2c	1 50
2 bbls. mortar, $1.00	2 00
15 fire-tiles, 1.00	15 00
½ bbl. cement, 3.50	1 75
Brick-work & labor	15 00
	$44 25

(Signed) W'M DOYLE,
Chief Engineer.

NEW ORLEANS, *May 31st*, 1871.

St'r Lotawana to Thomas Forester, Dr.

[Brick-layer and furnace-builder, Algiers.]

1 bbl. lime	$3 00
56 fire-tiles, @ $1.00	56 00
350 fire-brick, 6c	21 00
200 boiler do., 2c	4 00
300 common do., 2c	6 00
Am't forw'd	90 00
36 Am't bro't fo'w'd	$90 00
1 bbl. cement	3 50
Brick-work & labor	35 00
	128 50
	44 25
	$172 75

(Signed) W'M DOYLE,
Chief Engineer.

Rule to vacate order of sale.—Filed June 16th, 1871.

W'M DOYLE ET AL. *vs.* ST'R LOTAWANA. } No. 9732.

United States district court, district of Louisiana.

On motion of Richard de Gray, proctor for Ruth and Larkin, intervenors in the above suit, and on suggesting to the court that, on the 15th day of June, 1871, an order was entered in said suit for the sale of said steamboat, on 10 days' notice.

It is ordered by the court that B. Egan, mover in said rule, show cause why said order should not be set aside on the 17th day of June, 11 a. m.

1st. Because said order was made ex-parte.

37 2d. Because said order was granted 5 days after the filing of said libel herein, and before any default had been taken.

3rd. Because, at the present season of the year, said steamboat would not bring one-half of her value.

Thomas Sewell and I. M. Sherman, intervening libellants.—Filed June 17th, 1871.

In admiralty.

To the judge of the district court of the United States for the district of Louisiana.

Thomas Sewell and I. M. Sherman, of the city of New Orleans, exhibit this their libel against the steamboat Lotawana, whereof H. C. McComas lately was master, being now in the custody of the marshal

of the district aforesaid under arrest in virtue of a warrant issued out of this honorable court, at the suit of W'm Doyle of said city of New Orleans in a cause of subtraction of wages, civil and maritime, her boats, tackle, apparel, and furniture, and against all persons law-
38 fully intervening for their interest therein, in a case of contract, civil and maritime.

And thereupon the said Thomas Sewell and I. H. Sherman do allege and articulately propound as follows:

First. The said Thomas Sewell and I. M. Sherman do each respectively allege and says that at the date mentioned in their bills of items hereto annexed and made part hereof, the said steamboat being then in the port of New Orleans, and designed on voyages or trips on the Mississippi River, and tributaries, the said master of said steamboat did represent to libellants respectively that said steamboat stood in need of the repairs in their respective bills of items mentioned, in order to render her competent and sea-worthy, and requested the libellant to make the same; that, in pursuance to said representation and request, the libellants did each undertake to repair and did repair said steamboat as set forth in their respective bills mentioned.

39 Second. That the said repairs were so made by the libellants on the credit of the said steamboat as well as the owners thereof, and were suitable, proper, and necessary for the purpose of enabling the said steamboat to make her voyages or trips with safety.

Third. That all and singular the premises are true.

Wherefore the libellants pray that process of monition may issue to the marshal of the district aforesaid, commanding him to cite and admonish all persons having or pretending to have any right, title, or interest in the said steamboat Lotawana, her boats, tackle, apparel, and furniture, to appear before this honorable court, on the day of , or such other day to be inserted in said monition as the court shall direct, then and there to answer the libellants in the premises according to the course of courts of admiralty and the rules and practice of this honorable court in civil causes of admiralty and maritime jurisdiction,
40 and that this honorable court will pronounce for the libellants' aforesaid demand, and desire the same to be paid with costs.

(Signed) R. DE GRAY, *Att'y.*
(Signed) THOMAS SEWELL.

Sworn to and subscribed before me this 21st June, 1871.
(Signed) K. LOEW, *U. S. Com'r.*

Bills annexed.

NEW ORLEANS, *May 25th*, 1871.

Steamer Lotawana & owners to I. M. Sherman, Dr.

For 2 new derricks @ $35	70	00
" 3 " spars	25	
3 days' mechanical labor in fitting same @ $6	18	00
" amount C. F. Schmidt & Co. (blacksmith's) bill for iron-work for spars & derricks	39	35
	$152	35

Received payment.

NEW ORLEANS, 24 *March*, 1871.

Steamer Lotawana to Thomas Sewell, Dr.

For two hoisting cranes, (Blood's Patent).. ..... $275 00
Received payment.

41 *Order sale revoked and new sale ordered.—Minutes of Saturday, June 17th*, 1871.

W'M DOYLE ET AL. vs. ST'R LOTAWANA. } No. 9732.

The rule herein was resumed, and after hearing counsel on both sides; It is ordered that the decree of sale entered on 15th instant be set aside, and that the steamer Lotawana be sold by the marshal after the expiration of the monition in this case, no application shall have been made to bond the boat.

Intervening libel: 14 *notes and act of mortgage.—Filed June 19th*, 1871.

W'M DOYLE vs. THE STEAMBOAT LOTAWANA. } No. 9732.

To the honorable the district court of the United States for the district of Louisiana. In admiralty sitting.

The intervening libel of Catherine Ann Rodd, administratrix of
42 the succession of Edwin W. Rodd, deceased, by appointment of the second district court, for the parish of Orleans, the same being a court of probate jurisdiction; of John E. Rodd, and of James T. Rodd, the said Edwin W. Rodd and James T. Rodd having formed the late commercial firm of E. W. Rodd & Sons; Arthur Poincy and Benjamin Poincy, who composed the commercial firm of A. Poincy & Son; Michael Shelly and William O'Harn, who compose the commercial firm of M. Shelly & Co.; Theophilus Prudhomme and John F. H. Grace, who compose the firm of Prudhomee & Grace; George Martin, William Dillon, and of Henry F. Lawler and W'm H. Shelly, who compose the commercial firm of Lawler & Shelly, all of whom are domiciliated in New Orleans, respectfully propounds that Henry G. McComas, being then the owner in possession of the steamboat called the Lotawana, a vessel engaged in navigating the waters of the United States, and being then and now in New Orleans, her home port, where the
43 tide ebbs and flows, did, on the 20th of May, 1871, by a public act, passed before F. B. Earhart, notary public, grant a mortgage in favor of the firms aforesaid, intervening libellants, on the said steamboat Lotawana, to secure the payment of fourteen notes, all made by said H. G. McComas, all dated New Orleans, 20th May, 1871, all payable, respectively, at six and nine months after date, at the Bank of America, and paraphed "Ne varietur," to identify them with the said act of mortgage.

Two of said notes being for the sum of twenty-four hundred and seventeen $\frac{25}{100}$ dollars each, in favor of Edwin W. Rodd & Sons, and which are now owned and held by them.

Two of said notes being for the sum of nine hundred and seventy-six

$\frac{42}{100}$ dollars each, in favor of A. Poincy & Son, and which are now held and owned by them.

Two of said notes being for nine hundred and forty-five $\frac{88}{100}$ dollars each, in favor of M. Shelly & Co., and which are now held and owned by them.

44 Two of said notes being for eight hundred and twenty-two $\frac{17\frac{1}{2}}{100}$ dollars each, in favor of George Martin, and which are now held and owned by him.

Two of said notes being for six hundred and sixty $\frac{47\frac{1}{2}}{100}$ dollars each in favor of Prudhomme and Grace, and which are now held and owned by them.

Two of said notes being for six hundred and seven $\frac{95}{100}$ dollars in favor of William Dillon, and which are now held and owned by them; and two of said notes being for three hundred and seventy-six $\frac{12\frac{1}{2}}{100}$ dollars in favor of Lawler and Selby, and which are now held and owned by them, which fourteen notes bear eight per cent. interest from date until paid; all of which will appear by the duly certified copy of the said *oathe* of mortgage, and by the said notes, all of which are annexed to and made part of this intervening libel.

That said mortgage was duly recorded according to law, in the
45 custom-house at New Orleans, on the 22d day of May, 1871, at five minutes past ten o'clock a. m.

That by virtue of the above facts those intervening libellants have a lien and privilege according to the laws of the State of Louisiana and of the United States, on the said steamboat Lotawana, together with all her machinery, engines, and furniture, boats, tackle, apparel, and appurtenances.

2d. Your intervening libellants further allege that W'm Doyle and als., in the proceeding, No. 9732 on the docket of this honorable court, have filed a libel against said steamboat Lotawana, &c., setting forth the claims for admiralty and maritime liens & privileges on said vessel, &c., the validity and truthfulness of which claims of the said libellants your intervening libellants are not advised of, and therefore they deny the existence and validity of the same, and require strict proof to be made of their existence and validity as maritime liens
46 and privileges on said ship.

3rd. That by the laws of the United States and of Louisiana these intervening libellants have a lien and privilege on the said steamboat and her proceeds for the amount of the aforesaid several mortgage notes.

Wherefore your intervening libellants pray to be permitted to file this intervening libel on such terms and stipulations as your honorable court may dictate and require, and for a decree condemning the said steamboat, and the proceeds thereof to be applied to the payment of the aforesaid mortgage notes, amounting to the sum of fourteen thousand nine hundred and thirteen $\frac{53}{100}$ and interest at eight per cent. per annum from the 10th of May, 1871, with all costs in this behalf expended, and that such other and further decree be rendered in the premises as to right and justice may appertain.

(Signed) SEMMES & MOTT, *Proctors.*

47 WILLIAM O. HARN, being sworn, deposes that the material allegations of the above intervening libel are true.

(Signed) W'M O. HARN.

Sworn to and subscribed before me this day of June, 1871.

(Signed) K. LOEW, *U. S. C.*

Let this intervention be filed. June 19th, 1871.
(Signed) E. H. DURELL, *Judge.*

Act of mortgage filed with intervention of mortgage creditors June 19th, 1871.

U. S. OF AMERICA, STATE OF LOUISIANA,
Parish of Orleans, City of New Orleans:

St'r Lotawana; mortgage. H. G. McComas in favor of his creditors.
N. O., May 20th, 1871.

Be it known that on this day before me, Ferdinand B. Earhart, a notary public in and for the parish of Orleans, State of Louisiana aforesaid, duly commissioned and sworn, personally came and appeared Harry G. McComas, esq'r, of this city and sole and only owner of
48 that certain stern-wheel steamboat called the Lotawana of New Orleans, of the burden of four hundred and seventy-nine $\frac{32}{100}$ tons, or thereabouts, who declared that he is justly and truly indebted in the full sum of thirteen thousand six hundred and thirteen dollars and fifty-three cents ($13,613.53) lawful current money of the United States, unto the following named persons and commercial firms of this city, that is to say unto E. U. Rodd & Sons in the full sum of four thousand eight hundred & thirty-five $\frac{47}{100}$ dollars, ($4,835$\frac{47}{100}$;) A. Poincy & Son in the full sum of nineteen hundred and fifty-two $\frac{84}{100}$ dollars; M. Shelly and Co. in the full sum of eighteen hundred and ninety-one $\frac{77}{100}$ dollars; George Martin in the full sum of sixteen hundred and forty-four $\frac{35}{100}$ dollars; Prudhomme and Grace in the full sum of thirteen hundred and twenty $\frac{95}{100}$ dollars; William Dillon in the full sum of twelve hundred and fifteen $\frac{90}{100}$ dollars; Lawler and Selby in the full sum of seven hundred and fifty-two $\frac{25}{100}$ dollars, and for the re-imbursement and payment of the said sums due to the said commercial firms
49 and said persons respectively the following-described promissory notes, to wit: to E. W. Rodd & Son two promissory notes,
Approved. F. B. E. dated this day each for the sum of two thousand four hundred and seventeen $\frac{73}{100}$ dollars, drawn and subscribed by the said Harry G. McComas to the order of E. W. Rodd and Son, and made
Approved. F. B. E. payable respectively six and nine months after date at the Bank of America, New Orleans, with eight per cent interest from date until paid; to A. Poincy and Son two promissory notes dated this day, each for the sum of nine hundred and seventy-six $\frac{42}{100}$ dollars, drawn and subscribed by the said McComas and made payable to the order of said A. Poincy and Son at the Bank of America, New Orleans, respectively six and nine months after date, with eight per cent. interest per annum from date until paid; to M. Shelly & Co. two promissory notes, each for the sum of nine hundred and forty-five $\frac{88}{100}$ dollars, dated this day, drawn and subscribed by the said McComas to the
50 order of M. Shelly & Co., and made payable respectively six and nine months after date at the Bank of America, New Orleans, with eight per cent. interest per annum from date until paid; to George Martin two promissory notes, each for the sum of eight hundred & twenty-two dollars $\frac{17}{100}$, (822.17\frac{1}{2}$,) dated this day, drawn and subscribed by the said McComas to the order of George Martin, and made payable respectively six and nine months after date at the Bank of America, New Orleans, with eight per cent. interest per annum from date until paid; to Prudhomme and Grace two promissory notes, each

or the sum of six hundred and sixty $\frac{47}{100}$ dollars, dated this day and drawn and subscribed by said McComas to the order of Prudhomme and Grace, and made payable respectively six and nine months after date at the Bank of America, New Orleans, with eight per cent. interest from date until paid; to William Dillon two promissory notes, each for the sum of six hundred and seven $\frac{95}{100}$ dollars, dated
51 this day, drawn and subscribed by the said McComas to the order of William Dillon, and made payable respectively six and nine months after date at the Bank of America, New Orleans, with eight per cent. interest per annum from date until paid; to Lawler & Selby, two promissory notes, each for the sum of three hundred and seventy-six $\frac{25}{100}$ dollars drawn and subscribed by the said McComas to the order of Lawler and Selby, and made payable respectively six and nine months after date at the Bank of America, New Orleans, with eight per cent. interest per annum until paid.

All of which said promissory notes, after having been duly paraphed by me "ne varietur" in order to identify the same herewith, have been delivered to the said respective persons and commercial firms in whose favor they are drawn, that is to say to Edwin Rodd, representing the firm of E. W. Rodd & Son; Arthur Poincy, representing the firm of A. Poincy and Son; William O. Harn, a member of and represent-
52 ing the firm of M. Shelly & Co.; George Martin and William Dillon (in propria persona;) Theophilus Prudhomme, representing the firm of Prudhomme and Grace; and Henry T. Lawer, representing the firm of Lawler and Selby, all of whom are here present accepting these presents for themselves and their said firms, and acknowledging delivery and possession of said promissory notes as they hereby declare.

Now in order to secure in capital and interest, the full and final payment of said promissory note in capital and in interest, the said Harry G. McComas does by these presents specially mortgage and hypothecate unto the said commercial firms, E. W. Rodd & Son, A. Poincy & Son, M. Shelly & Co., Prudhomme & Grace, Lawler and Selby, and the said George Martin and William Dillon, and such person or persons who may eventually be the holder or holders of said promissory notes, that said certain stern-wheel steamboat called the "Lotawana" of New Orleans, together with all and singular her machinery, engines,
53 furniture, boats, tackle apparel, and appurtenances, which said vessel is enrolled in the port of New Orleans in the words and figures following, to wit:

Enrollment permanent No. 102.

Enrollment in conformity to and act of Congress of the United States of America, entitled an act for enrol' and licensing ships or vessels to be employed in the coasting trade and fisheries, and for regulating the same, approved February 18th, 1793, and of an act to regulate the admeasurment of tonnage of ships and vessels of the United States approved May 6th, 1864.

H. G. McComas of New Orleans, La., having taken or subscribed the oath required by the said act, and having sworn that he is a citizen of the United States and sole owner of the ship or vessel called the "Lotawana." whereof H. G. McComas is at present master, and, as he has sworn, is a citizen of the United States, and that the said ship or vessel was built at Marietta, State of Ohio, in the year 1867, as appears by enrollment No. 67, issued at this port November 1st, 1867,

54 surrendered property changed, and enrollment No. 67, having certified that the said ship or vessel has one deck and no masts, and that her length is $155\frac{1}{10}$ feet, her brea'th $35\frac{1}{10}$ feet, her depth $4\frac{8}{10}$ feet, her height $\frac{1}{10}$ feet, that she measures four hundred and seventy-nine $\frac{22}{100}$ tons, viz:

	Tons.	100ths.
Capacity under tonnage deck	223	48
Capacity between decks		
Above tonnage deck		
Capacity & enclosures on the upper deck	255	74
Total tonnage	479	22

And that she is a stern-wheel steamboat, has a plain head and a stern; and the said McComas having agreed to the description and admeasurement above specified, and sufficient security having been given according to said acts, the said steamboat has been duly enrolled at the port of New Orleans.

Given under my hand and seal, at the port of New Orleans and the district of New Orleans, this 17th day of January, in the year one thousand eight hundred and seventy-one.

[SEAL.] (Signed) WILLIAM BAKER,
D'y Collector.

55 [SEAL.] (Signed) JONA. C. WHITE.
D'y Naval-Officer.

The said steamboat and appurtenances so to remain mortgaged and hypothecated until the full and final payment of said promissory note in capital and interest, the said mortgagor hereby binding himself and his heirs not to sell, alienate, or encumber the same to the prejudice of these presents, and the said mortgagor hereby further agrees to transfer a certain policy of insurance on said steamboat for the sum of ten thousand dollars unto said mortgagees or the holder or holders of said promissory notes, the said policy of insurance so to be transferred until the full and final payment of said promissory notes.

And the said mortgagor further declares that he does by these presents consent, agree, and stipulate that, in the event of the said promissory-notes not being punctually paid at their maturity, it shall be lawful for, and he does hereby authorize, the said mortgagees or
56 any other holder or holders thereof to cause all and singular the hereinbefore-described vessel and appurtenances to be seized and sold under executory process issued by any competent court, without appraisement, to the highest bidder, payable cash, the said mortgagor hereby confessing judgment in favor of said mortgagees, and such person or persons who may be the holder or holders of said promissory-notes, for the full amount thereof, capital and interest, together with all costs of court, charges, and attorneys' fees and expenses whatsoever, incurred to collect the same, in the event of a suit, said attorney's fees *and expenses whatsoever incurred to collect the same, in the event of a suit, said attorney's fees* however to be fixed at per cent.

And the said mortgagor declares further that this mortgage is extended to cover the said costs, charges, attorney's fees, and expenses that may be incurred in the event of legal proceedings being taken to collect said promissory notes.

57 A United States Internal-Revenue stamp of the denomination of fourteen dollars being hereto affixed and duly cancelled.

This done and passed in my office in the presence of Moses Fox and R. King Cutler, lawful witnesses, who hereunto sign their names with said parties and me, notary, this twentieth day of May, A. D. one thousand eight hundred and seventy-one.

(Signed) H. G. McCOMAS.
(Signed) E. W. RODD & SONS,
By E. W. RODD.
(Signed) A. POINCY & SON,
By ARTHUR POINCY.
(Signed) M. SHELLY & CO.,
By WILLIAM O. HERN.
(Signed) GEO. MARTIN.
(Signed) PRUDHOMME & GRACE.
By TH. PRUDHOMME.
(Signed) W'M DILLON.
(Signed) LAWLER & SELBY.
(Signed) HENRY T. LAWLER,
(Signed) F. B. EARHART, *N. P.*

Witness:
(Signed) M. Fox.
(Signed) R. King Cutler.

STATE OF LOUISIANA, *Parish of Orleans:*

I, the undersigned notary, hereby certify the foregoing to be a
58 true copy of the original act duly extant in my current register.

In faith whereof, I grant these presents under my signature and the impress of my seal of office, at the city of New Orleans, this fourteenth day of June A. D. eighteen hundred and seventy-one.

[SEAL.] (Signed) F. B. EARHART, *N. P.*

[5-cent int. rev. stamp, affixed and canceled.]

(Endorsed:)

CUSTOM-HOUSE, NEW ORLEANS,

Received for record this 22d day of May, 1871, at 5 minutes past 10 o'clock a. m., recorded in book B, page 410.

(Signed) A. J. YOUNG,
Register of Sales.

$607.95.] NEW ORLEANS, *May 20th*, 1871.

Nine months after date I promise to pay to the order of William Dillon, esq., six hundred and seven $\frac{95}{100}$ dollars. with eight per cent. interest from date, until paid. Value received payable at the bank of America.

H. G. McCOMAS.

Due .

(Written across the face:)

NEW ORLEANS, *May 20th*, 1871.

Ne varietur. Secured by mortgage on st'r Lotawana, as per act duly stamped before me this day.

F. B. EARHART, *N. P.*

59 $607.95.] NEW ORLEANS, *May 20th*, 1871.

Six months after date, I promise to pay to the order of William

Dillon, esq., six hundred and seven $\frac{95}{100}$ dollars, with eight per cent. interest from date until paid. Value received, payable at Bank of America, N. O.

H. G. McCOMAS.

Due .

(Written across the face:)

NEW ORLEANS, *May 20th*, 1871.

Secured by mortgage on st'r Lotawana, as per act duly stamped before me this day.

F. B. EARHART, *N. P.*

$376.12½.] NEW ORLEANS, *May 20th*, 1871.

Six months after date I promise to pay to the order of Lawler and Selby three hundred and seventy-six $\frac{12}{100}$ dollars, with eight per cent. interest from date until paid. Value received; payable at Bank of America.

H. G. McCOMAS.

Due .

(Written across the face:)

NEW ORLEANS, *May 20th*, 1871.

Secured by mortgage on st'r Lotawana, as per act duly stamped before me this day.

F. B. EARHART, *N. P.*

$376.12½.] NEW ORLEANS, *May 20th*, 1871.

Nine months after date I promise to pay to the order of Lawler and Selby three hundred and seventy-six $\frac{12}{100}$ dollars, with eight per cent. interest from date until paid. Value received; payable at Bank of America.

H. G. McCOMAS.

Due .

(Written across the face:)

NEW ORLEANS, *May 20th*, 1871.

Ne varietur. Mortgage on st'r Lotawana as per act duly stamped before me this day.

F. B. EARHART, *N. P.*

60 $822.17½.] NEW ORLEANS, *May 20th*, 1871.

Six months after date I promise to pay to the order of George Martin, esq., eight hundred and twenty-two $\frac{17}{100}$ dollars, with eight per cent. interest from date until paid. Value received; payable at Bank of America, New Orleans.

H. G. McCOMAS.

Due .

(Written across the face:)

NEW ORLEANS, *May 20th*, 1872.

Ne varietur. Secured by mortgage on st'r Lotawana as per act duly stamped before me this day.

F. B. EARHART, *N. P.*

$822.17½.] NEW ORLEANS, *May 20th*, 1871.

Nine months after date I promise to pay to the order of George Martin, esq'r, eight hundred and twenty-two $\frac{17}{100}$ dollars, with eight per cent. interest from date until paid. Value received; payable at Bank of America, New Orleans.

H. G. McCOMAS.

Due .

(Written across the face:)

NEW ORLEANS, *May 20th*, 1871.

Ne varietur. Secured by mortgage on st'r Lotawana, as per act duly stamped before me this day.

F. B. EARHART, *N. P.*

61 $2,417.73½.] NEW ORLEANS, *May 20th*, 1871.

Six months after date I promise to pay to the order of Edwin W. Rodd & Son, twenty-four hundred and seventeen $\frac{73}{100}$, with eight per cent. interest from maturity until paid at Bank of America, New Orleans.

H. G. McCOMAS.

Due .

(Written across the face:)

NEW ORLEANS, *May 20th*, 1871.

Ne varietur. Secured by mortgage on st'r Lotawana, by act duly stamped before me this day.

E. B. EARHART, *N. P.*

$2,417.73½.] NEW ORLEANS, *May 30th*, 1871.

Nine months after date I promise to pay to the order of Edwin W. Rodd & Son twenty-four hundred and seventeen $\frac{73}{100}$ dollars, with eight per cent. interest from date until paid. Value received; payable at Bank of America, New Orleans.

H. G. McCOMAS.

Due .

(Written across the face:)

NEW ORLEANS *May 20th*, 1871.

Ne varietur. Secured by mortgage, by act duly stamped before me this day.

F. B. EARHART, *N. P.*

$945.88½.] NEW ORLEANS, *May 20th*, 1871.

Six months after date I promise to pay to the order of M. Shelly & Co. nine hundred and forty-five $\frac{88}{100}$ dollars, with eight per cent. interest from date until paid. Value received; payable at Bank of America, New Orleans.

H. G. McCOMAS.

Due .

(Written across the face:)

NEW ORLEANS, *May 20th*, 1871.

Ne varietur. Secured by mortgage on st'r Lotawana, as per act duly stamped before me this day.

F. B. EARHART, *N. P.*

62 $945.88½.] NEW ORLEANS, *May 20th*, 1871.

Nine months after date I promise to pay to the order of M. Shelly & Co. nine hundred and forty-five $\frac{88\frac{1}{2}}{100}$ dollars, with eight per cent. interest per annum from date until paid. Value received; payable at Bank of America, New Orleans.

H. G. McCOMAS.

Due .

(Written across the face:)

NEW ORLEANS, *May 20th*, 1871.

Ne varietur. Secured by mortgage on st'r Lotawana, as per act duly stamped before me this day.

F. B. EARHART, *N. P.*

$976.42.] NEW ORLEANS, *May 20th*, 1871.

Six months after date I promise to pay to the order of A. Poincy & Son nine hundred and seventy-six .42 dollars, with eight per cent. interest from date until paid. Value received; payable at Bank of America, N. O.

H. G. McCOMAS.

Due Nov. 20–23, 1871.

(Written across the face:)

NEW ORLEANS, LA., *May 20th*, 1871.

Ne varietur. Secured by mortgage on st'r Lotawana, as per act duly stamped before me this day.

F. B. EARHART, *N. P.*

63 $976.42.] NEW ORLEANS, *May 20th*, 1871.

Nine months after date I promise to pay to the order of A. Poincy & Son nine hundred and seventy-six .42 dollars, with eight per cent. interest from date until paid. Value received; payable at Bank of America, New Orleans.

H. G. McCOMAS.

Due Feb'y 20–23, 1872.

(Written across the face:)

NEW ORLEANS, *May 20th*, 1871.

Ne varietur. Secured by mortgage on st'r Lotawana, as per act duly stamped before me this day.

F. B. EARHART, *N. P.*

$660.47½.] NEW ORLEANS, *May 20th*, 1871.

Nine months after date I promise to pay to the order of Prudhomme & Grace six hundred and sixty $\frac{47\frac{1}{2}}{100}$ dollars, with eight per cent. interest from date until paid. Value received; payable at Bank of America, N. O.

H. G. McCOMAS.

Due .

(Written across the face:)

NEW ORLEANS, *May 20th*, 1871.

Ne varietur. Secured by mortgage on st'r Lotawana, as per act duly stamped before me this day.

F. B. EARHART, *N. P.*

$660.47½.] NEW ORLEANS, *May 20th*, 1871.

Six months after date I promise to pay to the order of Prudhomme and Grace six hundred and sixty. 47½ dollars, with eight per cent. interest from date until paid. Value received; payable at Bank of America, New Orleans.

H. G. McCOMAS.

Due .

(Written across the face:)

NEW ORLEANS, *May 20th*, 1871.

Ne varietur. Secured by mortgage on st'r Lotawana, as per act duly stamped before me this day.

F. B. EARHART, *N. P.*

64 *Intervening libel of Geo. Ellis.—Filed June 20th*, 1871.

W. DOYLE ET AL. *vs.* ST'R LOTAWANA. } No. 9732.

United States district court, district of Louisiana. In admiralty.

To the honorable judge of the district court of the United States in and for the district of Louisiana, holding sessions at the city of New Orleans:

George Ellis, of the city of New Orleans, exhibits this his intervening libel against the steamboat Lotawana, her boats, tackle, engines, &c., whereof H. G. McComas was lately master and owner, now in the custody of the marshal of the district aforesaid, under and by virtue of a warrant issued in the above-entitled case, and against all persons lawfully intervening for their interest therein.

And thereupon the said George Ellis, in a cause of contract, civil
65 and maritime, doth allege and articulately propound as follows, viz:

First. That on the day of , 18 , he shipped on board the said steamboat Lotawana, then lying in the port of New Orleans, certain goods, a correct list of which is annexed hereto, which were to be transported for hire by said steamer to the port of Jefferson, in the State of Texas, and there delivered to one D. S. Snodgrass.

Second. That for and in consideration of the transportation of said goods said McComas, then master and owner of said steamer, agreed and undertook on behalf of intervenor, on delivery of said goods to said Snodgrass, to collect from him the price of said goods, to wit, the sum of one hundred and fifty-one dollars, and safely transport said amount to the city of New Orleans, and here deliver it to intervenor, the said George Ellis.

Third. That said McComas, master and owner as aforesaid,
66 did transport and deliver said goods to said Snodgrass, and did collect from him the said sum of $151, but that said McComas did not, pursuant to his contract as aforesaid, transport, and deliver said sum to libellant, but on the contrary converted said sum to purchase necessary supplies for said steamer, thus causing damage and loss to libellant to the full amount of said sum, $151.

Fourth. That all and singular the premises are true.

Wherefore libellant prays leave to file this his intervening libel, that

process issue thereon according to law; that all the parties in interest be notified thereof, and after such proceedings as may be necessary, that this honorable court will pronounce for libellants said demand of one hundred and fifty-one dollars, and decree the same to be paid out of the proceeds of said steamer, with lien and privilege on said proceeds,
67 and for such other relief as to right and justice may appertain, and as this honorable court is competent to give in the premises.

N. O., June 20th, 1871.

PERCY ROBERTS, *Proctor.*
GEORGE ELLIS.

Sworn to and subscribed before me, this the 20th day of June. 1871.
(Signed) K. LOEW,
U. S. Com'r.

Amount of bill annexed, $151.00.

Libel of intervention of John Reyneaud, copy of answer, with note and protest, filed June 23rd, 1871.

W'M DOYLE ET AL. }
vs. } No. 9732.
ST'R LOTAWANA. }

To the honorable the United States district court for the district of Louisiana.

The libel of intervention of John Reynaud, master and owner of the steamboat Frolic, hereinafter mentioned, as well for the several persons composing the crew of the said steamboat Frolic, as for himself,
68 against the said steamboat Lotawana, whereof H. G. McComas lately was master, her tackle, apparel, machinery, and furniture, now lying in the port of New Orleans, and under seizure by virtue of admiralty process issued from this honorable court in the above cause, and against all persons claiming any interest in said vessel, in a cause of salvage, civil and maritime, alleges as follows, to wit:

1st. That on the 2d day of May, 1871, the aforesaid steamboat Frolic, whereof the said John Reynaud was then master and owner, and having a crew of about twenty-five men, besides the said master, left the port of New Orleans, Louisiana, on a voyage to the port of Donaldsonville, in Louisiana.

2d. That while proceeding on her voyage, to wit, on the same day, the 2d of May, 1871, at about 11 o'clock p. m., the said steamboat Frolic being about 12 miles from the port of New Orleans, on the Mississippi River, in Louisiana, was hailed by a boat in distress, lying near
69 the left bank of the river; that orders were therefore given on board the steamboat Frolic to bear down to the boat hailing, which was done immediately by the steamboat Frolic, thus deviating considerably from her ordinary course for the purpose, and the boat in distress was discovered to be the "Lotawana," with a valuable cargo of molasses, coffee, and sundries, bound from the port of New Orleans, Louisiana, to the port of Jefferson, Texas, and navigated then by the master, H. G. McComas, the mate, and a crew of about fifty men, the said steamboat Lotawana being then fast aground.

3rd. That the said steamboat Lotawana was then in a very dangerous situation, and the boat and cargo in great hazard of being lost, the boat being fast aground and unmanag'able, and at the mercy of the elements,

her anchor lost, and her crew much fatigued, having endeavored all that was possible to force her off the ground, without success, and
70 that the said H. G. McComas, then the master of the said steamboat Lotawana, asked the said John Reynaud, master of the steamboat Frolic, to assist and preserve the said boat in distress and her cargo, in obedience to which request the said John Reynaud gave orders to that effect, and, with his men, immediately set about using their best endeavors to preserve the same.

4th. That lines were sent by the said steamboat Frolic, and made fast to the Lotawana, in order to pull her off the ground; that after various attempts were made by the steamboat Frolic to pull the said steamboat Lotawana off the ground without success, the Lotawana being too fast aground, and the lines of the said steamboat Frolic breaking at each attempt, it became necessary to light the said steamboat Lotawana, in order to save her and her cargo.

5th. That the cargo of the said steamboat Lotawana was then,
71 after much trouble and great difficulty, taken off her and placed on the steamboat Frolic, after which she became manageable, and was then pulled off the ground by the said steamboat Frolic and placed in safety.

6th. That in order to return to the said steamboat Lotawana her cargo removed during the night of the 2d and part of the 3rd day of May, 1871, and to loose the least time possible, it became necessary to lash the said steamboats together, which was done, and thus they proceeded up the Mississippi River, in the prosecution of their different voyages, a distance of about fifty miles, until the entire cargo of the said steamboat Lotawana was returned to her, which caused the said steamboat Frolic to pass several of her most important landings on the coast without stopping.

7th. That in acknowledgement of the salvage services thus rendered, the said H. G. McComas, then master of the said steamboat Lotawana, gave to your libellants an order dated Mississippi River, May 3d,
72 1871, on Messrs. E. Conery, Son & Co., at New Orleans, for four hundred dollars, ($400,) which order was on your libellants' return to the port of New Orleans properly presented to the drawees but not paid, and thereupon protested for non-payment, and the said H. G. McComas duly notified thereof, all of which will more fully appear by reference had to the order and protest, which are hereto annexed, and that the sum of four hundred dollars ($400) was a very low estimate for the salvage services rendered by the libellants to the said steamboat Lotawana.

8th. That all and singular the premises are true and within the admiralty and maritime jurisdiction of this honorable court, and in verification whereof, if denied, the libellants crave leave to refer to the depositions and other proofs to be by them exhibited in this case.

Wherefore your libellants pray that process in due form of law may issue against the said steamboat Lotawana, her tackle, apparel,
73 furniture, &c., and that this honorable court will pronounce for demand aforesaid, and decree the same to be paid with the costs and expenses, and such other and further relief and redress as to right and justice may appertain, and as the court is competent to give in the premises.

(Signed) JOHN L. MONNIER AND BENTINCK EGAN, *Proctors.*

(Signed) JOHN REYNAUD.

Sworn to and subscribed before me this 23d June, 1871.
(Signed) K. LOEW, *U. S. Co.*

Amount of note	$400 00
Costs of protest	5 40
	$405 40

Libel of intervention of Miller and Wood, with three due bills.—Filed June 23rd, 1871.

WM. DOYLE ET AL. *vs.* ST'R LOTAWANA. } No. 9732.

74 To the Honorable E. H. Durell, judge of the United States district court for the district of Louisiana :

The libel of intervention of Miller and Wood, a commercial firm composed of George F. Miller and M. A. Wood, doing business as coal merchants at Red River Landing, in this State, against the steamer Lotawana, whereof H. G. McComas late was master, her tackle, &c., now lying in the port of New Orleans and under seizure by virtue of admiralty process issued from this honorable court in the above cause and against all persons claiming any interest in said vessel, in a cause of contract, civil and maritime, alleges as follows :

1st. That the steamer Lotawana, whereof H. G. McComas late was master, was in the months of April and May, 1871, engaged in commerce and navigation between the ports of New Orleans and Jefferson in the State of Texas and various intermediate points and places, making
75 on an average about two trips per month to and from New Orleans, carrying freight and passengers for hire.

2d. That on the 2d and 16th of April, and also on the 15th of May, 1871, said boat being engaged in the prosecution of her aforesaid voyages and becoming in need of coal for fuel for said boat, to enable her to prosecute her aforesaid voyages, stopped at Red River Landing, at the coal yard or depot of libellants, and libellants at the special instance and request of the master of said boat furnished and sold her on 2d of April with 200 boxes of coal at 65 cents per box, and on the 16th of April with 150 boxes at 60 cents, and on the 15th of May with 200 boxes at 60 cents per box, making in all 550 boxes of coal, the total price of which would be $340, in acknowledgement of which the clerk of said boat gave libellants three due bills of said boat, annexed and made part hereof.

3rd. That said steamer Lotawana is now justly and truly
76 indebted to your libellants in the full sum of three hundred and forty dollars for coal sold and delivered by them to said boat at Red River Landing at the dates mentioned in the three due bills annexed ; that said coal was used on board said boat as fuel to enable her to prosecute her aforesaid voyage ; that the prices charged for the same are just and reasonable, and said boat could not have prosecuted her voyage without said coal, and that the credit for the same was given to the boat alone.

4th. That said boat is now under seizure and about to be sold by virtue of admiralty process issued from this honorable court in the above cause.

5th. That all and singular the premises are true and within the admiralty and maritime jurisdiction of the United States and of this honorable court.

Wherefore libellants pray that this libel of intervention be filed, and that process in due form of law and according to the course of this
77 honorable court in causes of admiralty and maritime jurisdiction may issue against the said steamer Lotawana, her tackle, &c., and that all persons claiming any interest in said vessel may be cited to answer the matters aforesaid, and after due proceedings had, that this honorable court will be pleased to decree the payment of libellants' aforesaid claim, with costs and privilege on said boat or her proceeds, and libellants pray for all general relief.

(Signed) BENTINCK EGAN, *Proctor.*
MILLER AND WOOD,
By G. F. MILLER.

Sworn to and subscribed before me this 23d June, 1871.
(Signed) K. LOEW, *U. S. C.*

Three due-bills annexed, one for one hundred and thirty dollars, one for ninety dollars, and one for one hundred and twenty dollars; total, $340.

Libel of intervention of Geo. R. Marsh and mariners, filed June 27th, 1871.

78 W'M DOYLE, ET ALS. *vs.* STR LOTAWANA. } No. 9732.

To the Honorable E. H. Durell, judge of the United States district court for the district of Louisiana:

The bill of intervention of George R. Marsh, late pilot on the steamer Lotawana, and Robert Ritchie, deck-hand on steamer Lotawana, whereof H. G. McComas late was master, her tackle, &c., now lying in the port of New Orleans, and under seizure, by virtue of admiralty process issued from this honorable court, and against all persons claiming any interest in said vessel, in a cause of substraction of wages, civil and maritime, alleges as follows:

1st. That the steamboat Lotawana, whereof H. G. McComas late was master, was, in the year 1871, engaged in commerce and navigation between the port of New Orleans and Jefferson, in the State of Texas, making on an average about two trips per month to and from the
79 port of New Orleans, carrying freight and passengers for hire.

2d. That said steamboat "Lotawana," being in the port of New Orleans on the 24th of January, 1871, and designed on her aforesaid voyages, the master of said boat shipped and hired your libellant, George W. Marsh, to serve on board of her as pilot, at the rate of three hundred dollars per month, and also shipped and hired your libellant, Robert Ritchie, at New Orleans, on the January, at $40 per month, wages, to serve on board of said boat as sailor man.

3rd. That libellants went on board and into the services of said boat on the dates of their respectvie shipments and continued to perform the services for which they were shipped until they were discharged, and the boat laid up for a season on the May, 1871.

4th. That the said boat is now justly and truly indebted to your libel-

lant, George R. Marsh, in the full sum of two hundred and ninety-
80 five dollars, for balance due him for wages as pilot, and your libellant, Rob't Ritchie, in the sum of five $\frac{85}{100}$ dollars, for balance due him for wages as deck-hand, and that during the whole time libellants served on board said boat, they well and truly performed the duties for which they had shipped, and were obedient to the lawful commands of the master and officers of said boat, and well and truly deserve the balance of wages herein claimed.

5th. That said boat is now under seizure, and about to be sold, by virtue of admiralty process issued from this honorable court in the above cause.

That all and singular the premises are true.

Wherefore libellants pray that this libel of intervention be filed, that process in due form of law and according to the course of this honorable court in causes of admiralty and maritime jurisdiction may issue against the said steamer Lotawana, her tackle, &c., and that all
81 persons claiming any interest in said vessel may be cited to answer the matters aforesaid, and that, after due proceedings had, this honorable court will be pleased to decree the payment of libellants' aforesaid claims, with costs; and libellant's pray for such other and further relief and remedy as the nature of their case may require and this honorable court is competent to give.

(Signed) BENTINCK EGAN, *Proctor.*
(Signed) GEORGE R. MARSH.
ROBERT RITCHIE.

Sworn to and subscribed before me June 27th, 1871.
(Signed) J. A. CHARBONET, *D'y Cl'k.*

Libel of intervention of McCloskey, Bigley & Co.—Filed June 28th, 1871.

W'M DOYLE ET ALS. *vs.* ST'R LOTAWANA. } No. 9732.

To the Honorable E. H. Durell, judge of the United States district court for the district of Louisi'.

82 The libel of intervention of McCloskey, Bigley & Co., a commercial firm, composed of P. G. & A. J. Bigley, doing business in the city of New Orleans as coal merchants, against the steamboat Lotawana, whereof H. G. McComas late was master, now under seizure and about to be sold by virtue of admiralty process issued from this honorable court in the above cause, and against all persons claiming any interest in said vessel, in a cause of contract, civil and maritime, alleges as follows:

That the steamboat Lotawana, whereof H. G. McComas late was master, was, in the months of April and May, engaged in commerce and navigation between the ports of New Orleans and Jefferson, in the State of Texas, making, on an average, about two trips per month to and from New Orleans, carrying freight and passengers for hire.

83 2d. That, on the 13th of April, and also on the 2d of May, 1871, said boat being in the port of New Orleans, designed on her said voyages and in need of coal for fuel to prosecute her aforesaid voyages, your libellants, at the special instance and request of the master of said boat, furnished supplies and sold her on the first of said dates with 200

boxes of coal, at 70 cents per box, and on the last of said dates 300 boxes at 65 cents, for which the clerk of said boat gave your libellants two due-bills of said boat—the first $140, the last for $195, making a total sum *sum* of three hundred and thirty-five dollars, all of which will more fully appear by reference to said two due-bills, annexed and made part hereof.

3rd. That said steamboat is now justly and truly indebted to your libellants in the full sum of three hundred and thirty-five dollars
84 for coal sold and delivered by libellants to said boat, as set forth above; that said coal was used on board of said boat as fuel, and was absolutely and indispensably necessary to enable said boat to prosecute her aforesaid voyages; that the prices charged for the same are just and reasonable, and the usual prices at that time, and the credit for the same was given to the boat alone.

4th. That said boat is now under seizure, and about to be sold, by virtue of admiralty process issued from this honorable court in the above cause.

5th. That all and singular the premises are true, and within the admiralty and maritime jurisdiction of the United States and of this honorable court.

Wherefore libellants pray that this libel of intervention be filed; that proces' in due form of law, and according to the course of the honorable court in causes of admiralty and maritime jurisdiction, may
85 issue against the said steamer Lotawana, her tackle, apparel, &c.; and that all persons claiming any interest in said vessel may be cited to answer the matters aforesaid, and, after due proceedings had, that this honorable court will be pleased to decree the payment of libellants' aforesaid claim, with costs; and libellants pray for all general relief.

(Signed) BENTINCK EGAN, *Proctor.*
(Signed) P. G. BIGLEY.

Sworn to and subscribed before me, this 28th June, 1871.
(Signed) K. LOEW, *U. S. Com'r.*

Annexed bills, (3.)

$195.] NEW ORLEANS, *May 2d,* 1871.

Due McCloskey, Bigley & Co., or order, one hundred and ninety-five dollars, for three hundred boxes coal, at per box.

STEAMBOAT LOTAWANA AND OWNERS.
JAMES BELL, *Clerk.*

Order to H. G. Heartt to appraise.—Filed June 28th, 1871.

86 United States circuit & dist. court.

APPRAISER'S DEPARTMENT,
OFFICE CUSTOM-HOUSE BUILDING,
New Orleans, June 27th, 1871.

(Copy.)

W'M DOYLE
vs.
STEAMER LOTAWANA. } No. 9732.

U. S. dist. court. Hon. E. H. Durell presiding.

The court appraiser will appraise for sale by the marshal the above steamer, and make your report in accordance with the rules made and provided by the court.

(Signed) SEMMES & MOTT,
Proctors for Intervening Libellants.

To H. G. HEARTT, Esq.,
U. S. Court Appraiser.

$140.] NEW ORLEANS, *April 13th*, 1871.

Due McCloskey, Bigley & Co., or order, one hundred and forty dollars, for two hundred boxes coal, at 70c. per box.

STEAMBOAT LOTAWANA & OWNERS.
JAMES BELL, *Clerk.*

Terms, cash.] NEW ORLEANS, *Dec. 1st*, 1871.

87 Steamer Julia A. Rudolph & owners bought of McCloskey, Bigley & Co., coal merchants; yard, head of Robin street; office, 166 Gravier st.:

8 h'h'ds Pitts. coal	$80 00
5 " anth. do.	55 00
	$135 00

Testimony in various claims.—Filed June 30th, 1871.

W'M DOYLE & AL. *vs.* ST'R LOTAWANA. } No. 9732.

Testimony taken before U. S. com'r K. Loew, June 30th, 1871.

Present: B. Egan, Semmes & Mott, P. Roberts, E. Hustand.

CLAIM OF GEO. ELLIS.

GEORGE ELLIS, sworn for himself, says:

I shipped the goods described in bill A in the Lotawana at the date therein stated. The clerk of the boat promised me to collect the bill from Mr. Snodgrass and pay me the money received. This was the consideration for which I shipped the goods in this boat.

88 These goods were delivered to Mr. Snodgrass, and he acknowledged the receipt of the same by letter to me, I think.

The captain himself admitted to me that he had collected the money from Mr. Snodgrass. The bill is $151.

(Signed) GEORGE ELLIS.

Sworn to and subscribed before me this 30th June, 1871.

(Signed) K. LOEW, *U. S. Com'r.*

JAMES BELL, sworn for G. Ellis, says:

On 1st March, 1871, I was a clerk on the Lotawana. I received the

goods in the boat to deliver same to Snodgrass. I and the captain undertook to collect the amount from Snodgrass and pay it over to Ellis—$151.

The captain collected money from Snodgrass and handed it over to me, and instructed me to pay some bills of with it, necessary supplies, and the money was so used.

Cross-examined:

Paid butcher and baker: butcher, $48; baker, $18. Balance
89 I paid for other supplies. The captain handed me $100, and I collected $51 myself. The captain told me the $100 came from Snodgrass.

(Signed) JAMES BELL.

Sworn to and subscribed before me this 30th June, 1871.
(Signed) K. LOEW, *U. S. C.*

CLAIM OF W'M DOYLE.

J. BELL sworn:

Was on the Lotawana as 1st clerk on March, 1871; knows W'm Doyle. He shipped on this boat about the same time I did. He was chief engineer, at $250 a month to run the engine; that is, he paying all his assistants. He had from 3 to 4 assistants. He did employ and pay them. He remained on board till 15th May. When I left he performed the services for which he was shipped. The business of the boat was to carry freight and passengers between New Orleans and Jeffer-
90 son, Texas; made about two trips a month. On the 15th May there was due Doyle $170 odd *dollars.*

Cross-examined:

Know of no payments made to Doyle after the 15th May, 1871.
(Signed) JAMES BELL.

Sworn to and subscribed before me this 30th June, 1871.
(Signed) K. LOEW, *U. S. C.*

W'M DOYLE, sworn for himself, says:

I shipped in New Orleans on the Lotawana on 27 or 28 February, 1871, as chief engineer, at 250 dollars a month, I to find and pay all my assistants; did so; had 3, and paid them all; was on the Lotawana from time of shipment to 10th May or June; think it was June; staid on her until the marshal came and seized. She was a freight and passenger boat between New Orleans and Jefferson, Texas, making two trips on an average; $274 *and* due me, as shown by the bill, which is correct. After the arrival of the boat on her last trip my wages
91 were reduced to $4 a day because I had only 1 assistant. I always performed the services required of me during the time I was on her. She owes me $274.

Cross-examined:

Captain McComas did not discharge me from the boat on 15th May, 1871. He spoke of it the evening before, and appointed a rendezvous to meet him, and when we came there he had shot himself. He lived about 48 hours after I saw him on the day he had shot himself.

Being asked under what authority he remained on the boat after the

death of Captain McComas, says: I remained there to see what disposition would be made of the boat, and to see about my money. None but the mate and myself and a night-watchman remained on board after the death of the captain. We thus remained on board up to the 10th of June. I did not do much work after the death of the
92 captain. I had to look after the engine; slept on board, but did not eat there.

(Signed) W'M DOYLE.

Sworn to and subscribed before me this 30th June, 1871.

(Signed) K. LOEW, *U. S. C.*

H. W. GRIBBLE, sworn on his own claim, says:

I shipped as 2d clerk on 23rd January, 1871, at New Orleans, at $135 a month; afterwards reduced to $125. On 27th April it was so reduced. I went on board same day I was hired by the captain; remained on board as 2d clerk till 15th May; was discharged in the morning of the 16th May by the captain, but he paid me no wages. $63.33 is due me. My bill is correct.

The Lotawana ran between New Orleans and Jefferson. I performed my duties well. The boat carried freight and passengers.

Cross-examined:

New Orleans was the Lotawana's home port. On the 15th May
93 all the officers except the 1st mate were discharged; understood a watchman was afterwards put on the boat.

Re-examined:

I saw the boat several times after I left; saw her about 4th street; saw no others on her then except engineer, mate, and watchman; saw some repairs going on; saw none of the crew except those three—the engineer, mate, and watchman. These are the only men I know to be positively engaged on the boat that time. I don't know the men that were making repairs on the boat at 4th street.

(Signed) HENRY W. GRIBBLE.

Sworn to and subscribed before me this 30th June, 1871.

(Signed) K. LOEW, *U. S. C.*

RUSSEL ISHAM, sworn on his own claim, says:

I shipped on 14th January on the Lotawana. Captain McComas engaged me as mate at $125 a month; went on board the day I
94 shipped; served as mate till the marshal seized her on the 10th June. The last trip in May my wages were reduced to $100 *dollars* a month, and when she was laid up they were reduced to $60 a month. The boat owes me $278.28 for balance of wages. The Lotawana ran from New Orleans to Jefferson, carrying freight and passengers. She made two trips a month.

Cross-examined:

Mr. Doyle, the engineer, stayed on board up to the time she was seized. He was there pretty much all the day, and slept on board. The captain thought he was sure to make another trip after the 15th.

The engineer, after the boat was laid up, was engaged in putting in order and repairing the engine, and had an assistant. The captain lived 48 hours after he shot himself. We were requested by the widow and

Mr. O. Hern to see that nothing was taken away from the boat, and to look out for the boat and protect her interest.

(Signed) RUSSEL ISHAM.

95 Sworn to and subscribed before me this 30th June, 1871.

(Signed) K. LOEW, *U. S. C.*

JOSEPH G. PARKER, sworn for himself, says:

I was shipped about last January, in New Orleans, by Captain McComas, as steward, at $65 a month; went on board same day; stayed on as steward till 23d May, 1871. Captain McComas discharged me on the 23rd day May, 1871, without paying me my wages, $49.45, besides $6.10 cash that I paid for eggs for the boat. It is customary for a steward to make small advances to the boat in his department.

The Lotawana was engaged in commerce, running between New Orleans and Jefferson, Texas.

Cross-examined:

I bought the eggs under way for the use of the boat.

(Signed) JOSEPH G. PARKER.

Sworn to and subscribed before me this 30th June, 1871.

(Signed) K. LOEW, *U. S. C.*

96 S. B. HENDERSON, for himself sworn, says:

I was shipped by Captain McComas, in New Orleans, in the Lotawanna, as porter, in January last; continued up to the 6th June, 1871. My employment was changed from porter to night watchman. Did my duty on board. There is due me 105.48; this is a balance.

Cross-examined:

I was not under wages as porter; ceased to be porter on 17th May, 1871. From this 17th May to 6th June, I was employed as night watchman, at $2 a day; the difference between the wages due me as porter and the amount I claim is for money advanced by me. $42 is due me for wages.

(Messrs. Semmes & Mott, proctors for the mortgage' creditors, except and object to all testimony not relating to wages.)

On 6th June, I was discharged by the mate. After the 16th, or rather the 17th, May, Mr. Doyle, the engineer, the mate, the striker assisting the engineer, and a day watchman were with me on board.

97 All the rest of the officers and crew were discharged on 17th May. The Lotawanna lay at 4th street.

Re-examined:

I advanced the money during the time I was porter, at different trips before the last. Once, I gave the captain $30; another time, $20, &c., &c.; I can't tell how many times I advanced the captain small sums for the use of the boat. I paid for baggage-wagons, bananas, and other such articles. The captain would generally repay me when in town.

(Signed) S. B. HENDERSON.

Sworn and subscribed before me this 30th June, 1871.

(Signed) K. LOEW, *U. S. C.*

HENRY MEYER, sworn for himself, says:

I shipped on the Lotawana on 20th May, 1871; went to work on her with the mate; cleaned her out; was to get $35 a month; worked nine days as such. After this I was watchman up to the day she was
98 seized. $26 is due me for services as deck-hand and watchman. Was shipped by the mate.

Cross-examined:

The mate employed me as watchman the day after the captain shot himself.

(Signed) HENRY MEYER.

Sworn to and subscribed before me this 30th June, 1871.
(Signed) K. LOEW, *U. S. C.*

ON CLAIM OF BENJAMIN WILLIAMS.

WILLIAM DOYLE, sworn, says:

Williams assisted me in repairing the machinery. He was to have $2 a day. His wages was to be paid by the boat. $26 wages are due him, besides $4 for services rendered by Williams to the captain. Williams was employed on 15 *a* 17 May. $30 is due him in all.

Cross-examined:

After my wages were reduced from $250 to $120, I was not to pay my assistants any longer. I was compelled to have a 2d engineer and two strikers when the boat was running.

(Signed) W'M DOYLE.

99 Sworn to and subscribed before me this 30th June, 1871.

F. W. RUST, sworn for himself, says:

My bill for boarding crew is correct. The price was agreed on with the captain of the Lotawanna. The vessel lay opposite my boarding-house. The agreement was made by the engineer and mate, at the captain's request. I boarded 4 of the crew 2 weeks and 2 meals, from 17th May to 1st June. $42 is due me.

Cross-examined:

The engineer and mate told me the captain had sent over to me. Don't know otherwise that the agreement was made at the captain's request. I had boarders from several other vessels that laid in the neighborhood, and the arrangements for the board were all made through the mate of the vessels; and it was never disputed that it was not done at the captain's request.

(Signed) F. W. RUST.

100 Sworn to and subscribed before me 30th June, 1871.
(Signed) K. LOEW, *U. S. C.*

R. ISHAM, recalled in claim of Rust, says:

His claim is correct. He boarded 4 of us from the Lotawanna. The captain accepted the bill and said it was correct. The captain author-

ized me to make the arrangement with Rust at $5 a week for board per head.

(Signed) RUSSELL ISHAM.

Sworn to and subscribed before me this 30th June, 1871.

(Signed) K. LOEW, *U. S. C.*

W'M DICKSON, sworn for himself, says:

I was shipped by Captain McComas as carpenter in the Lotawan'a on 23d May, 1871, at New Orleans, at 110 a month; went on board same day. I shipped and worked until 9th June. The boat owes me, for 17 days work, $62.32.

(Signed) W'M DICKSON.

Sworn to and subscribed before me this 30th June, 1871.

(Signed) K. LOEW, *U. S. C.*

101 CLAIM RUTH & LARKIN.

W'M DOYLE sworn, says:

I have examined the bills sent in and am satisfied that they are correct in amount, dates, & prices.

Cross-examined:

The work was done at New Orleans.

(Signed) W'M DOYLE.

Sworn to and subscribed before me this 30th June, 1871.

(Signed) K. LOEW, *U. S. C.*

ON CLAIM OF CHA'S MCCORMACK, TO BE FILED.

W'M DOYLE sworn, says:

The boat owes him something like $60, for repairs made by him to the boat the trip before the last, and whilst she was regularly running.

(Signed) W'M DOYLE.

Sworn to and subscribed before me this 30th June, 1871.

(Signed) K. LOEW, *U. S. C.*

ON CLAIM OF JOHN HENNESSY.

W'M DOYLE sworn, says:

102 I know that Hennessy did the work under my supervision. As to dates and amounts, I believe them to be correct. I don't know that Hennessy ever got any pay for his work.

ON CLAIM OF D. C. MCCAW.

W'M DOYLE sworn, says:

The bill from 27th February, I know to be correct. What he claims for previous work, I cannot say. The work was done in New Orleans.

CLAIM OF THOMAS FORRESTER.

Same witness proves bills correct in dates and amounts for repairs to

furnace to the Lotawanna. This work was necessary for the boat, for without it the boat could not have made her voyages. She owes him $172.75. I had previously examined and approved the bills, and the work was all done in New Orleans, under my supervision.

Cross-examined:

Duplicate bills had been rendered, previously, to the boat and approved by me.

(Signed) W'M DOYLE.

103 Sworn to and subecribed before me this 30th June, 1871.

(Signed) K. LOEW, *U. S. C.*

CLAIM McCLOSKEY, BIGLEY & CO.

JAMES BELL sworn:

Recognizes his signature to the bills $195 and $140. I gave these due-bills, as clerk of the boat, in acknowledgement of the coal furnished by the parties in New Orleans, for the use of the boat. The prices are the usual market prices at the time the boat was running to Jefferson, Texas. She could not have run without fuel. She made about 2 trips a month.

CLAIM MILLER AND WOOD.

Same witness proves claim correct. $340 is due them for coal furnished the Lotawanna, at the mouth of Red River. Recognizes his signature to the due-bills, and they are an acknowledgement of the fuel received, and the quantity and the prices. The coal was used on the boat, as fuel. The prices charged are the usual prices at the
104 date. Boat running to Jefferson and intermediate landings, carrying freight and passengers.

Examined by R. Mott, esq.:

JAMES BELL sworn, in claim of Parker Steward, says:

$46 and some cents is due him, for wages and advances to 15th May, and does not think he was on her after that day.

Examined by B. Egan:

Did not see Parker discharged, but he and all the rest of the crew went ashore. I did not see any of them discharged, but the account was made up to the 15th May, and they went ashore. On that day, the 15th, I told Parker how much was due him. I quit the boat on the 16th May. Don't know that the captain kept Parker on board after that time. After the 16th and up to the 21st May, 1871, I was on board, making up the accounts. She then laid up at 4th street. There was no cooking or eating on board after the 16th.

105 Examined on claim Henderson, (porter.)

Know nothing about the claim. Heard he was night watchman. Before I left he was not night watchman. There was no wages due him as porter, none at all.

Cross-examined:

Suspect the Lotawana had a night watchman. It is usual to have one. Don't know that Henderson was employed as night watchman on the 17th, because I was not in the boat's employ at the time.

(Signed) JAMES BELL.

Sworn to and subscribed before me this 30th June, 1371.
(Signed) K. LOEW, *U. S. Com'r.*

CLAIM OF PARKER, (STEWARD.)

HENDERSON, (porter,) sworn, says:

He, Parker, was steward on the Lotawana. After the 17th May he was discharged, I think. Don't know what was due him when he was discharged.
(Signed) S. B. HENDERSON.

Sworn to and subscribed before me this 30th June, 1871.
106 (Signed) K. LOEW, *U. S. C.*

PARKER, recalled, sworn, says:

The Lotawanna owes me $49.45, wages, besides, $6.10 for eggs. The clerk never told me the amount due me, to my recollection. I did not ask him for my account on that trip; remained on board until the 23d May; was there every day, at the captain's special request, to look after the interests of the boat in my line.
(Signed) JOSEPH G. PARKER.

Sworn to and subscribed before me this 30th June, 1871.
(Signed) K. LOEW, *U. S. C.*

JOHN HENNESSY, sworn on his own claim, says:

The bills annexed to my intervention are correct in dates and amounts, and are approved by the captain. The work was done
107 at the time stated in the bills. The Lotawanna owes me $409.26. I suppose the work was necessary, otherwise they would not have called on me to do it. The credit was given to the boat. The Lotawan'a was engaged in the Red River, making regular trips to Jefferson, Texas, and New Orleans.

Cross-examined:

I have not received one cent from any one for my work.
(Signed) JOHN HENNESSY.

Sworn to and subscribed before me this 30th June, 1871.
(Signed) K. LOEW, *U. S. C.*

Adjourned till Monday, 3rd July, 1871, at 11½.

Libel of intervention of D. C. McCan with bills.—Filed June 30th, 1871.

W'M DOYLE ET ALS. *vs.* ST'R LOTAWANNA. } No. 9732.

To the honorable E. H. Durell, judge of the United States district court for the district of Louisiana:

108 The libel of intervention of D. C. McCan, residing and doing business in this city as a foundryman, against the steamer Lotawanna, whereof H. G. McComas late was master, her tackle, &c., &c., now laying in the port of New Orleans and under seizure by virtue of

admiralty process issued from this honorable court in the above cause, and against all persons intervening for their interest in said vessel in a cause of contract, civil and maritime, alleges as follows:

1st. That the steamboat Lotawanna, whereof H. G. McComas late was master, was, in the months of February, March, April, and May, 1871, engaged in commerce and navigation between the port of New Orleans, on the Mississippi River, and Jefferson, in the State of Texas, and various intermediate ports, making, on an average, about two trips per month to and from the port of New Orleans, carrying freight and passengers for hire.

109 2d. That said steamer being in the port of New Orleans on various dates in said months of February, March, April, and May, designed on her aforesaid voyages and in need of various repairs to her machinery and foundry-work of various descriptions, your libellants, at the special instance and request of the master and officers of said boat, furnished her with the same; the dates, description, character, and particulars, including prices, will more fully appear by reference to the detail-bill, annexed and made part of this petition.

3rd. That said steamer Lotawan'a is now justly and truly indebted to your libellant in the full sum of four hundred and seventy-three 05 dollars, being the balance due him for labor, materials furnished, and repairs, and the machinery and other work on the said steamboat Lotawan'a, or for her use and benefit, all of which will more fully appear by reference to the detail-bill, annexed and made part here-

110 of; that the prices charged for the same are just and reasonable, and the usual prices at that time, and that said labor, materials, &c., were absolutely and indispensibly necessary to enable said boat to prosecute her aforesaid voyages, and that the credit for the same was given to the boat alone.

4th. That said steamer is now under seizure and about to be sold by virtue of admiralty process issued from this honorable court in the above cause.

5th. That all and singular the premises are true, and within the admiralty and maritime jurisdiction of the United States and of this honorable court.

Wherefore libellant prays that this libel of intervention be filed, that process in due form of law and according to the course of this honorable court in causes of admiralty and maritime jurisdiction may issue against the said steamer Lotawan'a, her tackle, &c., and that all persons claiming any interest in said vessel may be cited to answer

111 the matters aforesaid, and after due proceedings had, that this honorable court will be pleased to decree the payment of libellant's aforesaid claim, with costs and with privilege, on the steamer Lotawan'a, and libellant prays for general relief.

(Signed) BENTINCK EGAN, *Proctor.*
(Signed) D. C. McCAN.

Sworn to and subscribed before me this 30th June, 1871.
(Signed) K. LOEW, *U. S. C.*

Amount of claim of D. C. McCan, $473.05, as per bill annexed.

Intervening libel of William H. Morgan.—Filed July 1st, 1871.

DOYLE & OTHERS
vs.
STEAMER LOTAWANNA. } No. 9732.

U. S. district court at New Orleans, sitting in admiralty.

To the hon. judge of the district court of the United States, sitting in admiralty at New Orleans, for district of Louisiana:

112 Your petitioner, William H. Morgan, doing business at New Orleans and residing within the district aforesaid, exhibits this, his intervening libel, against the steamer Lotawan'a, whereof was late master, now being in the custody of the marshal of said district, under arrest in virtue of a warrant issued in the above-entitled suit in a cause of contract, civil and maritime, her tackle, apparel, and furniture, and against all other persons lawfully intervening for their interest herein in a cause of contract, civil and maritime, and thereupon the said William H. Morgan does allege and articulately propound as follows:

1st. That the said steamer Lotawan'a, being of more than 20 tons burthen and employed in navigating the waters within the jurisdiction of this honorable court, and taking her departure frequently from the port of New Orleans to other ports beyond the State of Louisiana, your petitioner, at the special instance and request of said master,
113 , and others, duly authorized agents, at sundry times, between January 12th, 1871, and April 14th, 1871, both dates inclusive, furnished and delivered to said steamer Lotawanna, for her use and benefit, certain provisions, groceries, and supplies, furnished and admitted to have been furnished for necessary use, &c., all of which will fully appear from annexed statement, made part hereof.

2d. That said supplies, &c., amount in all to thirty-eight dollars, (38.00,) after deducting payments made from time to time, as shown by said statement annexed; and were necessary, suitable, and proper for the purpose of enabling said steamer Lotawanna to be continued in her said employment.

3rd. That said supplies were furnished by libellant upon the credit of said steamer Lotawana, as well as the said master, owners and officers of said vessel.

4th. That said sum thirty-eight $\frac{00}{100}$ dollars ($38.00) is wholly due and exigible, though amicable demand has been repeatedly
114 and fruitlessly made.

5th. That all and singular the premises are true.

Wherefore, petitioner prays that this intervening libel be filed; that petitioner has after due and final proceedings herein a decree in his favor for said sum of thirty-eight .00 dollars, ($38.00,) with legal interest from January 24th, 1871, until paid, with admiralty lien and privilege on said steamer, her tackle, apparel and furniture, or the proceeds of her sale; that said debt and interest be decreed to be paid libellant out of the proceeds of said steamer Lotawanna in the registry of the hon. court, and for general relief in the premises according to due course of proceedings in courts of admiralty.

(Signed) M. A. FONTE, *Proctor.*
(Signed) WM. H. MORGAN.

Sworn to and subscribed before me this 1st July, 1871.
(Signed) J. A. CHARBOND, *D'y Clerk.*

115 Amount due by annexed bill, $38.00.

Libel of intervention of the Southern Dry Dock Company with bill filed July 3rd, 1871.

WM. DOYLE, ET ALS.
vs.
STEAMER LOTAWANA. } No. 9732.

To the Honorable E. H. Durell, judge of the United States district court for the district of Louisiana:

The libel of intervention of the Southern Dry Dock Company, a corporation under the laws of the State of Louisiana, and domiciled in the city of New Orleans, against the steamer Lotawana, whereof H. G. McComas late was master, now laying in the port of New Orleans, and under seizure by virtue of admiralty process issued from this honorable court in the above cause, and against all persons intervening for their interest in said vessel in a cause of contract civil and maritime, alleges as follows:

116 1st. That the steamer Lotawana, whereof H. G. McComas late was master, was in the months of January, 1871, engaged in the business of commerce and navigation between the ports of New Orleans and Jefferson in the State of Texas, and various intermediate points and places between said ports, making on an average about two trips per month between said ports, carrying freight and passengers for hire.

2d. That the said steamboat being in the port of New Orleans in the month of January, 1871, and in need of repairs, docking and materials, your libellants at the special instance and request of the master of said vessel docked her, furnished the material and labor, and made various repairs to said vessel, all of which are fully set forth in the detail-bill annexed to and made part of this libel.

3rd. That the steamer Lotawana is now justly and truly indebted to your libellants in the full sum of three hundred and two dollars for the balance due them on the bill annexed, for docking, labor, and ma-

117 terials furnished in making repairs to said boat, on the dates set forth in said bill; that the prices charged for the same are just and reasonable and the usual prices at that time, and *that time, and* that the credit for the same was given to the boat alone, and said work was absolutely and indispensibly necessary to make said boat seaworthy and enable her to prosecute her aforesaid voyages.

4th. That said boat is now under seizure and about to be sold by virtue of admiralty process issued from this honorable court in the above cause.

5th. That all and singular the premises are true and within the admiralty and maritime jurisdiction of the United States and of this honorable court.

Wherefore, libellants pray that this libel of intervention be filed, and that process in due form of law, and according to the course of this honorable court in causes of admiralty and maritime jurisdiction, may issue against the said steamer Lotawana, her tackle, &c., and that

118 all persons claiming any interest in said vessel be cited to answer the matters aforesaid; and after due proceedings had, that this honorable court will be pleased to decree the payment of libellant's

aforesaid claim, with costs and privilege on said boat or her proceeds; and libellant prays for such other and further relief and remedy as the nature of the case may require and this court is competent to give.

(Signed) BENTINCK EGAN, *Proctor.*
(Signed) Z. Z. LASHBURN.

Sworn to and subscribed before me this 3rd July, 1871.
(Signed) J. A. CHARBONET, *D'y Cle'k.*

Amount by due-bill annexed, $302.00.

Libel of intervention of M. Shelly & Co. with bill.—Filed July 3rd, 1871.

WM. DOYLE ET AL. *vs.* STEAMER LOTAWANA. } No. 9732.

119 To the honorable E. H. Durell, judge of the United States district court for the district of Louisiana:

The libel of intervention of M. Shelly & Co., a commercial firm composed of M. Shelly and W'm O. Hern, doing business in New Orleans, against the steamer Lotawana, whereof H. G. McComas late was master, now lying in the port of New Orleans and under seizure by virtue of admiralty process issued from this honorable court in the above cause, and against all persons intervening for their interest in said vessel in a cause of contract, civil and maritime, alleges as follows:

1st. The steamboat Lotawana, whereof H. G. McComas late was master, was in the month of March, 1871, engaged in the business of commerce and navigation between the port of New Orleans and Jefferson, in the State of Texas, and various intermediate ports and places, making on an average about two trips per month to and from the
120 port of New Orleans, carrying freight and passengers for hire.

2d. That said boat being in the port of New Orleans on the 30th of March, 1871, and designed on her aforesaid voyages, and in need of various stores for the supplies of her passengers, officers, and crew, the master of said boat applied to and purchased from your libellants 1,039 lbs. of clear sides at 13½ cents, and two kegs of butter, weighing 66 lbs. nett, at 25 cents per lb. as stores for said boat, libellants' bill for which was $156.67; all of which will more fully appear by reference to the detail-bill annexed and made part hereof.

3rd. That the said steamboat is now justly and truly indebted to your libellants in the full sum of one hundred and fifty-six $\frac{76}{100}$ ($156.76) dollars for stores sold and delivered by them to said steamer Lotawana, as set forth in the annexed bill; that the prices charged for the
121 same are just and reasonable, and the credit for the same was given to the boat alone.

4th. That said boat is now under seizure, and about to be sold by virtue of admiralty process issued from this honorable court in the above cause.

5th. That all and singular the premises are true and within the admiralty and maritime jurisdiction of the United States and of this honorable court.

Wherefore, libellants pray that this libel of intervention be filed, that process in due form of law and according to the course of this honorable court in causes of admiralty and maritime jurisdiction may issue against the said steamer Lotawana, her tackle, apparel, &c., and that

all persons claiming any interest in said vessel may be cited to answer the matters aforesaid, and after due proceedings had that this honorable court will be pleased to decree the payment of libellants' aforesaid claim, with costs and privilege on said boat, and libellants pray
122 for general relief.

(Signed) BENTINCK EGAN, *Proctor.*
(Signed) H. J. BAER.

H. J. BAER, being duly sworn, says he is the broker who sold the goods mentioned in bill annexed, and knows the facts alleged in this intervention to be correct.

(Signed) H. J. BAER.

Sworn to and subscribed before me, July 3rd, 1871.
(Signed) J. A. CHARBONNET, *D'y Clk.*

Amount of bill annexed..... $156 76

Venditioni exponas, issued 30 days, but not returned by the marshal.

Libel of intervention of England Tellon & Co., William M. Surls, H. J. Baer, H. Edwards, Charles McCormack, G. G. Poinet, M. B. Ross, filed July 5th, 1871.

WM DOYLE ET AL
vs.
STEAMER LOTAWANA. } No. 9732.

123 To the honorable E. H. Durell, judge of the United States district court for the district of Louisiana:

The libel of intervention of England, Tellon & Co., a commercial firm, composed of Richard England, residing and doing business in the city of New Orleans; of William M. Surls, residing and doing business in New Orleans; of H. J. Baer, residing and doing business in New Orleans; of Charley McCormack, residing and doing business in New Orleans; of H. Edwards, residing at Cassondrio, on Red River; and of G. G. Poinet, residing in New Orleans; M. B. Ross; against the steamer Lotawanna, whereof H. G. McComas late was master, her tackle, &c., now laying in the port of New Orleans, and under seizure by virtue of admiralty process issued from this honorable court in the above cause, and against all persons intervening for their interest in said vessel, in a cause of contract civil and maritime, alleges as follows:

1st. That the steamer Lotawana, whereof H. G. McComas late was master, was, in the months of January, February, March, April,
124 and May, engaged in the business of commerce and navigation between the ports of New Orleans and Jefferson, in the State of Texas, and various intermediate ports and places, carrying freight and passengers for hire, and making, on an average, about two trips per month to and from the port of New Orleans.

2d. That in various date' in said months of January, February, March, April, and May, 1871, the said steamer Lotawan' being in the port of New Orleans, and in need of various articles of supplies, materials, and repairs and agency, your libellants, at the special instance and request of the master of said vessel, furnished herewith said articles, on the dates mentioned in their respective bills, and acted as her agent, soliciting freight and passengers for her, all of which will more fully appear

by reference to the detail-bills of libellants, annexed to and made part of this libel.

3rd. That the said steamboat Lotawanna is now justly and
125 truly indebted to your libellants in the amounts set forth opposite their respective names, to wit: England, Tellon & Co., one hundred and eighty-five dollars, for supplies of fish; W'm M. Surls, eighty $\frac{60}{100}$, for agency and dispatch; H. J. Baer, one hundred dollars, for agency; Charles McCormack, for materials furnished, and repairing, hoisting-engine of the boat, sixty dollars; H. Edwards, twenty-eight dollars, for 7 cords of wood taken by the boat at the Times landing; G. G. Poinet, sixty-eight dollars for bar account; M. B. Ross, thirty-five dollars; all of which will more fully appear by reference to the libellants' respective due-bills annexed and made part hereof.

4th. That said supplies, materials, repairs, wood, and agency, as claimed by libellants, were absolutely and indispensibly necessary to enable said boat to prosecute her aforesaid voyages; that the prices charged for the same are just and reasonable, and the credit for the same was given to the boat alone.

126 5th. That said boat is now under seizure, and about to be sold by virtue of admiralty process issued from this honorable court in the above cause.

6th. That all and singular the premises are true and within the admiralty and maritime jurisdiction of the United States and of this honorable court.

Wherefore libellants pray that this libel of intervention be filed, and that process, in due form of law and according to the course of this honorable court in cases of admiralty and maritime jurisdiction, may issue against the said steamer Lotawanna, her tackle, &c., and that all persons claiming any interest in said vessel may be cited to answer the matters aforesaid, and, after due proceedings had, that this honorable court will be pleased to decree the payment of libellants' aforesaid claims, with costs, and privilege on said steamer Lotawanna or her proceeds, and all costs of suit, and libellants pray for such other and
127 further relief and remedy as the nature of their cases may require and this court is competent to give.

(Signed) BENTINCK EGAN, *Proctor.*
(Signed) R. ENGLAND.

Sworn to and subscribed before me, July 1st, 1871.
(Signed) J. A. CHARBONNET, *D'y Clerk.*
(Signed) H. J. BAER.

Sworn to and subscribed before me, July 3d, 1871.
(Signed) J. A. CHARBONNET, *D'y Clerk.*

Bill of M. B. Ross	amounts	to	.....	$35 00
" " H. Edwards	"	"	.....	28 00
" " Ch's McCormack	"	"	.....	60 00
" " H. J. Baer	"	"	.....	100 00
" " W'm M. Surls, Ap'l 14,	"	"	.....	40 60
" " " " do., May 2d,	"	"	.....	40 00
" " England, Tellon & Co.	"	"	.....	185 00
" " G. G. Poinet, May 15,	"	"	.....	3 75
" " G. G. Poinet, Ap'l 9,	"	"	.....	15 15
" " G. G. Poinet, Ap'l 23,	"	"	.....	30 25
" " G. G. Poinet, May 15,	"	"	.....	18 85

Libel of intervention of David Hughes, with bills, filed July 5th, 1871.

W'M DOYLE ET AL.
vs.
ST'R LOTAWANNA. } No. 9732.

To the honorable E. H. Durell, judge of the United States district court for the district of Louisiana:

The libel of intervention of David Hughes, residing and doing business in the city of New Orleans, against the steamboat Lotawanna, whereof H. G. McComas late was master, her tackle, apparel, and furniture, now lying in the port of New Orleans, and under seizure by virtue of admiralty process issued from this honorable court in the above cause, and against all persons claiming any interest in said vessel, in a cause of contract, civil and maritime, alleges as follows:

1st. That the steamboat Lotawanna, whereof H. G. McComas late was master, was, in the months of January, February, March, April, and May, 1871, engaged in navigation and commerce between the ports of New Orleans, on the Mississippi, and Jefferson, in the State of Texas, and various intermediate ports and places between said
129 ports, making, on an average, about two trips per month to and from the port of New Orleans, carrying freight and passengers for hire.

2d. That the said steamboat was on various dates in the said months of January, February, March, April and May, 1871, laying in the port of New Orleans, and designed on her aforesaid voyages, and in need of bread, biscuits, crackers, corn meal, and yeast, for the supplies of her passengers, officers and crew, and your libellants, at the special instance and request of the master of said vessel, furnished and sold said boat, on various dates in said months, with various quantities of bread, biscuits, crackers, corn meal, and yeast, &c., for supplies for the passengers, officers and crew, libellants' bill for which amounts to the sum of three hundred and ninety-three $\frac{98}{100}$ dollars, all of which will more fully appear by reference to the detail-bills, annexed and made part of this bill.

2d. That the said steamer Lotawanna is now justly and truly
130 indebted to your libellant in the full sum of three hundred and ninety-three $\frac{98}{100}$ dollars for supplies of bread, biscuits, crackers, corn meal, yeast, &c., sold and delivered by libellant to said steamer Lotawanna, the dates, quantities, and particulars of which will more fully appear by reference to the detail-bills annexed; that said supplies were used on the said boat, and were absolutely and indispensibly necessary to enable her to prosecute her aforesaid voyages; that the prices charged for the same are just and reasonable, and the credit for the same was given to the boat alone.

4th. That said boat is now under seizure, and about to be sold by virtue of admiralty process, issued from this honorable court in the above cause.

5th. That all and singular the premises are true, and within the admiralty and maritime jurisdiction of the United States, and of this honorable court.

Wherefore libellant prays that this libel of intervention be
131 filed, that process in due form of law, and according to the course of this honorable court in causes of admiralty and maritime jurisdiction, may issue against the said steamer Lotawana, her tackle, &c., and that all persons claiming any interest in said vessel may be

cited to answer the matters aforesaid, and after due proceedings had, that this honorable court will be pleased to decree the payment of libellants' aforesaid claim, with costs and privilege on said boat or her proceeds, and libellants pray for general relief.

(Signed) BENTINCK EGAN, *Proctor.*
(Signed) DAVID HUGHES.

Sworn to and subscribed before me, July 5th, 1871.
(Signed) I. A. CHARBONNET, *D'y cl'k.*

Bills of D. Hughes, annexed, amount as follows:

June	16th, 1871	$393	98
May	17 "	8	20
"	2 "	42	84
April	12 "	40	35
	March 31, 1871	49	47
132	March 17th, 1871	$59	62
	February 27th, 1871	28	80
	" 27, 1871	51	90
	" 10, "	52	86
January	24, "	59	94

These bills were filed with intervention, July 5th, 1871.
(Signed.) J. A. CHARBONNET, *D'y Cl'k.*

Libel of intervention of Joseph A. Brown, with bills filed July 5th, 1871.

W'M DOYLE ET AL. *vs.* ST'R LOTAWANA. } No. 9732.

To the honorable E. H. Durell, judge of the United States district court for the district of Louisiana:

The libel of Joseph A. Brown, residing and doing business in the city of New Orleans, as a lumber merchant, against the steamer Lotawanna, whereof H. G. McComas late was master, now laying in the port of New Orleans, and under seizure by virtue of admiralty process, issued from this honorable court in the above cause, and against all persons
133 claiming any interest in said vessel, civil and maritime, alleges as follows:

1st. That the steamer Lotawana, whereof H. G. McComas late was master, was, in the months of January, 1871, engaged in commerce and navigation between the ports of New Orleans and Jefferson, in the State of Texas, making, on an average, about two trips per month, carrying freight and passengers for hire.

2. That said steamer Lotawana, being in the port of New Orleans on various dates in the said months of January, 1871, and designed on her aforesaid voyages, and in need of various quantities and descriptions of lumber to make repairs, to make her seaworthy and enable her to prosecute her aforesaid voyages, your libellants, at the special instance and request of her said master, sold and delivered her various quantities and descriptions of lumber for the purposes aforesaid, at the dates mentioned in the detail-bills, annexed and made part hereof, all of which will more fully appear by reference to said detail-bills.

134 3rd. That said steamer Lotawana is now justly and truly indebted to your libellant in the full sum of three hundred and fourteen $\frac{15}{100}$ dollars, for lumber sold and delivered by him to said boat, to enable her to make repairs; that said lumber was absolutely and indispensibly necessary to make said boat seaworthy, and enable her to prosecute her aforesaid voyages; that the prices charged for the same are just and reasonable, and the usual prices at the time, and that the credit for the same was given to the boat alone.

4th. That said steamer Lotawanna is now under seizure, and about to be sold, by virtue of admiralty process issued from this honorable court in the above cause.

5th. That all and singular the premises are true, and within the admiralty and maritime jurisdiction of the United States and of this honorable court.

Wherefore libellant prays that this libel of intervention be filed,
135 and that process in due form of law, and according to the course of this honorable court in causes of admiralty and maritime jurisdiction, may issue against the said steamboat Lotawana, her tackle, &c., and that all persons claiming any interest in said vessel may be cited to answer the matters aforesaid, and after due proceedings had, that this honorable court will be pleased to decree the payment of libellants' aforesaid claim, with costs and privilege on the steamer Lotawanna, or her proceeds, and libellants pray for such other and further relief and remedy as the court may be competent to give.

(Signed) BENTINCK EGAN, *Proctor.*
(Signed) JOSEPH BROWN.

Sworn to and subscribed before me July 5th, 1871.
(Signed) J. H. CHARBONNET, *D'y Clk.*

Annexed bill of Joseph A. Brown amounts to $314.15.

136 *Libel of intervention of Wilson, Fagan & Co., with bills filed July 7th*, 1871.

W'M DOYLE ET AL. *vs.* ST'R LOTAWANNA. } No. 9732.

To the Hon. E. H. Durell, judge of the United States district court for the district of Louisiana:

The libel of intervention of Wilson, Fagan & Co., a commercial firm, composed of Samuel Wilson, W'm Fagan, and Benjamin F. Miller, residing and doing business in the city of New Orleans, against the steamer Lotawanna, whereof H. G. McComas late was master, now laying in the port of New Orleans under seizure, and about to be sold by virtue of admiralty process issued from this honorable court in the above cause, and against all persons claiming interest in said vessel, in a cause of contract, civil and maritime, alleges as follows:

1st. That the steamer Lotawanna, whereof H. G. McComas late was master, was in the months of January, February, March,
137 April, and May, 1871, engaged in commerce and navigation between the ports of New Orleans and Jefferson, in the State of Texas, and various intermediate ports and places, making on an average about two trips per month, carrying freight and passengers for hire.

2d. That on various dates in the said months of March, April, and May, 1871, the said steamer Lotawanna, being in the port of New Orleans, and designed on her aforesaid voyages, and in need of meat for supplies for her passengers, office's, and crew, your libellants, at the special instance and request of the master of said vessel, furnished her at various dates in said months, March, April, and May, 1871, with various quantities and descriptions of meats for the use of said boat, all of which will more fully appear by reference to the detail-bills annexed and made part of this libel.

3rd. That the said steamer Lotawanna is now justly and truly
138 indebted to your libellant in the full sum of nine hundred and seventy-one $\frac{79}{100}$ dollars for supplies of meat sold and delivered by *by* libellants to said boat, as set forth in the detail-bills annexed; that the prices charged are just and reasonable, and the usual prices at that time, and that said meat was necessary to enable said boat to prosecute her aforesaid voyages, and that the credit for the same was given to the boat alone.

4th. That said boat is now under seizure, and about to be sold, by virtue of admiralty process, issued from this honorable court in the above cause.

5th. That all and singular the premises are true and within the admiralty and maritime jurisdiction of the United States and of this honorable court.

Wherefore libellants pray that this libel of intervention be filed, that process in due form of law and according to the course of this honorable court do issue against the said steamer Lotawanna, her
139 tackle, &c., and that all persons claiming any interest in said vessel be cited to answer the matters aforesaid, and after due proceedings had that this honorable court will be pleased to decree the payment of libellants' aforesaid claim, with costs and privilege on said boat or her proceeds, and libellants pray for such other and further relief as the nature of their case may require and this court is competent to give.

(Signed) BENTINCK EGAN, *Proctor.*
(Signed) W'M FAGAN.

Sworn to and subscribed before me, this 7th day of July, 1871.
(Signed) J. A. CHARBONNET, *D'y Clk.*

Bill annexed, of Wilson, Fagan & Co., amounts to $971.79.

Notice to H. G. Heartt, appraiser, and return of service, filed July 8th, 1871.

United States district court, district of Louisiana.

CLERK'S OFFICE, (Official business.)
New Orleans, 5th July, 1871.

140 H. G. HEARTT,
Court Appraiser:

DEAR SIR: We withdraw the request heretofore made to you to appraise the S. B. Lotawanna, &c., as the law does not require the same, and it is not necessary under the circumstances.

Yours, &c.,
(Signed) SEMMES & MOOT,
For Intervening Libellant.

Return.

Served above notice on H. G. Heartt in person, Saturday, July 8th, 1871.

(Signed) W'M O. HERN.

Intervention of M. J. Taylor, Fanny Stroop, and John David, filed July 10th, 1871.

W'M DOYLE
vs.
ST. B'T LOTAWANNA. } No. 9732.

United States district court.

To the Hon. E. H. Durell, the judge of the United States district court for the district of Louisiana:

The libel of intervention of M. J. Taylor and of Fanny Stroop,
141 who reside in New Orleans, and of John David, who resides in Pineville, La., against the steamboat Lotawanna, her tackle, apparel, and furniture, and against all persons lawfully intervening for their interest herein, and thereupon the above-named intervening libellants allege and propound as follows:

First. That same steamboat, whereof H. J. McComas lately was master is of tons burthen, and is and was engaged in commerce on the Mississippi River, and its tributaries.

Second. That heretofore, during the current year, M. J. Taylor furnished sundry copper, tin, and sheet-iron work for the use of said boat, as will more fully appear from Exhibit A, hereto annexed, as part hereof, to the sum of $119.85, of which sum $54.25 has been paid on account, leaving due a balance of $65.85.

That Fanny Stroop furnished during the current year sundry vegetables, &c., for the use of said boat, as will more fully
142 appear from Exhibit B, annexed as part hereof, to the sum of $144, of which sum $50 has been paid on a'c', leaving a balance of $94.00.

That John David, furnished fire-wood for the use of said boat to the amount of $52.50, as will more fully *show* from Exhibit C, annexed as part hereof.

Third. That all of the supplies, labor, &c., set forth in above exhibits, were furnished at the request of the master and owner of said boat Lotawanna, and were necessary in order to enable her to pursue her business of navigation aforesaid.

Fourth. That said steamboat is now under seizure, and is about to be sold, or has been sold by virtue of admiralty process issued herein, and the proceeds are now in the registry of this honorable court, and your intervenors allege their privilege on same, under the law, both of admiralty and of this State.

143 Fifth. That all and singular premises are true and within the admiralty and maritime jurisdiction of this honorable court.

Wherefore intervenors pray that this their libel of inte'vention be filed, and that all the parties in interest be cited to answer same, and, after due proceedings, there be judgment in favor of intervenors for amount of their claims, viz: For M. J. Taylor, $65.85, Fanny Stroop, $94.00, and John David, $52.50, and against said steamboat Lotawanna, her tackle, &c., with privilege on said boat, &c., or on the proceeds of

sale thereof with costs, and for all such other and further orders and decree as to your honor may appertain.

(Signed) JOHN P. SMITH,
Proctor for Libellants.
(Signed) M. J. TAYLOR.

Sworn to and subscribed before me, July 10th, 1871.
(Signed) J. A. CHARBONNET, *D'y Clerk.*

JOHN P. SMITH, being sworn, says he is the proctor of John
144 David, intervenor herein, living in Pineville, Rapides Parish, La., and that the facts and allegations set up by said David are true and correct, to the best of his knowledge and belief.

(Signed) JOHN P. SMITH.
Sworn to and subscribed before me, July 5th, 1871.

(Signed) J. A. CHARBONNET, *D'y Clk.*
(Signed) FANNY STROOP.

Sworn to and subscribed before me, this 19th July, 1871.
(Signed) K. LOEW, *U. S. C.*

Annexed bill of John David amounts to..... $52 50
Annexed bill of Fanny Stroop amounts to (June 6th, 1871).... $94 00
Annexed bill of Fanny Stroop, items of above a'c' only given, July, 1871, amounts to same..... $
Annexed bill of M. J. Taylor, amounts to..... $65 85

Libel of intervention of Lagan & Mackison, Dougherty & McHaffie, Thomas R. Brady. Filed July 13th, 1871.

W'M DOYLE ET AL. *vs.* STR. LOTAWANNA. } No. 9732.

145 To the Honorable E. H. Durell, judge of the United States district court for the district of Louisiana:

The libel of intervention of Lagan and Mackison, a commercial firm composed of Mathew D. Lagan and James Mackison, Dougherty and McHaffie, composed of W'm Dougherty and Jessie McHaffie, and Thomas R. Brady, all residing and doing business in the city of New Orleans, against the steamer Lotawanna, whereof H. G. McComas late was master, now laying in the port of New Orleans, and under seizure in the above cause, and against all persons claiming any interest in said vessel in a cause of contract, civil and maritime, alleges as follows:

1st. That the steamer Lotawanna, whereof H. G. McComas late was master, was in the months of January, February, March, April, and May, 1871, engaged in commerce and navigation between the
146 port' of New Orleans and Jefferson, Texas, and various intermediate ports and places between said ports, making on an average about two trips per month to and from the port of New Orleans.

2nd. That, on various dates in the said months of , the steamer Lotawanna, being in the port of New Orleans, and designed on her aforesaid voyages, and in need of various articles of hardware,

ship-chandlery repairs, materials, &c., your libellants, at the special instance and request of the master and officers of said boat, furnished and delivered the same to her, the dates, amounts, and particulars of which will more fully appear by reference to their respective detail-bills annexed and made part hereof.

3rd. That said steamboat Lotawanna is now justly and truly indebted to your libellants in the amounts set forth opposite their respective names, to wit: Lagan and Mackison ; Dougherty and McHaffie, one hundred and forty-five $\frac{25}{100}$ dollars, for docking and repairing
147 boat. Thomas R. Brady, ninety $\frac{66}{100}$ dollars, for lumber furnished to the boat, all of which will more fully appear from the detail-bills annexed. That the said hardware, ship-chandlery, repairs, and materials furnished by libellants to said boat, as aforesaid, were absolutely and indispensably necessary to enable her to prosecute her aforesaid voyages; that the prices charged for the same are just and reasonable, and the credit was given to the boat alone.

4th. That said boat is now under seizure, and about to be sold by virtue of admiralty process issued from this honorable court in the above cause.

5th. That all and singular the premises are true.

Wherefore libellants pray that this libel of intervention be filed; that process, in due form of law and according to the course of this honorable court in causes of admiralty and maritime jurisdiction, may issue against the said steamer Lotawanna, and that all persons claim-
148 ing any interest in said vessel may be cited to answer the matters aforesaid; and, after due proceedings had, that this honorable court will he pleased to decree the payment of libellants' aforesaid claim, with costs; and libellants pray for such other and further relief and remedy as the nature of their cases may require and this court is competent to give.

(Signed) BENTINCK EGAN, *Proctor.*
(Signed) T. R. BRADY.

Sworn to and subscribed before me July 10th, 1871.
Annexed bill of T. R. Brady for $90.60.
Annexed bill of Doughty & McHaffie for $145.25.

Intervening libel of Bostock and Seymour. Filed July 14th, 1871.

WM DOYLE ET ALS. *vs.* ST'R LOTAWANNA. } No. 9732.

In the United States district court for the district of Louisiana.

To the Honorable E. H. Durell, judge of the said court:

149 Bostick and Seymour, a commercial firm domiciled in the city of New Orleans, and composed of E. H. Bostick and Frank W. Seymour, who reside in said city, exhibit this their intervening libel against the steamer Lotawanna, now lying in the port of New Orleans, in the district aforesaid, and within the admiralty and maritime jurisdiction of this honorable court, her boats, tackle, apparel, and furniture, which steamboat is advertised to be sold, by the marshal of this court, on the 19th of July, 1871, and against her proceeds, and all persons lawfully intervening for their interest therein in a cause of contract, civil and maritime.

And thereupon the said Bostick and Seymour do allege and articulately propound as follows, to wit:

First. That, at the dates mentioned in the schedule or account hereunto annexed, libellants furnished to said steamer the supplies,
150 which supplies, and the value thereof, are truly and more particularly stated and described in the said schedule, and which amounts in the whole to one hundred and sixteen $\frac{63}{100}$ dollars.

Second. That the said supplies were so furnished by libellants when the said steamboat was lying in the port of New Orleans, in the State of Louisiana, and within the admiralty and maritime jurisdiction of the United States, and on the credit of the said steamboat, as well as of the owners and master thereof, and were suitable, proper, and necessary for the navigation of the said steamboat.

Third. That the aforesaid sum of $116.63 still remains wholly unpaid and due to the libellants, although they have often requested the master of the said steamboat to pay the same.

Fourth. That all and singular the premises are true.

Wherefore libellants pray leave to intervene in this libel No.
151 9732, and that process, in due form of law, may issue against the said steamboat Lotawanna, her boats, tackle, apparel, and furniture, and that this honorable court will pronounce for their aforesaid demand, and decree the same to be paid, with costs, and for such other and further relief and redress as to right and justice may appertain.

(Signed) M. M. COHEN, *Proctor.*
(Signed) BOSTICK & SEYMOUR.

Sworn to and subscribed before me, July 14th, 1871.
(Signed) J. M. CHABONNET, *D'y Clk.*

Annexed bill of Bostick and Seymour, July 12th, 1871, amounts to $116.63.

Intervening libel of C. W. Wilson. Filed July 14th, 1871.

W'M DOYLE ET AL. *vs.* ST'R LOTAWANNA. } No. 9732.

U. S. district court for the district of Louisiana.

To the Honorable E. H. Durell, the judge of the said court:

152 C. W. Wilson, who resides in the city of New Orleans, exhibits this his intervening libel against the steamer Lotawanna, now lying at the port of New Orleans, in the district aforesaid, and within the admiralty and maritime jurisdiction of this honorable court, and against her boats, tackle, apparel, and furniture, which steamboat is advertised to be sold, by the marshal of this court, on the 19th of July, 1871, and against her proceeds, and all persons lawfully intervening for their interest therein in a cause of contract, civil and maritime.

And thereupon the said C. W. Wilson does allege articulately and propounds as follows, to wit:

First. That, at the dates mentioned in the schedule or account hereunto annexed, libellant furnished to said steamer the supplies, &c., which supplies, and the value thereof, are truly and more particularly

stated and described in the said schedule, and which amounts in the whole to one hundred and thirty $\frac{65}{100}$ dollars.

153 Second. That the said supplies were so furnished by libellant when the said steamboat was lying at the port of New Orleans, in the State of Louisiana, and within the admiralty and maritime jurisdiction of this honorable court, and on the credit of said steamboat, as well as that of the owners and master thereof, and were suitable, proper, and necessary for the navigation of the said steamboat.

3rd. That the aforesaid sum of $130.65 still remains wholly unpaid and due to the libellant, although he has often requested the master of the said steamboat to pay the same.

4th. That all and singular the premises are true.

Wherefore libellant prays leave to intervene in this libel No. 9732, and that process in due form of law may issue against the said steamboat Lotawanna, her boats, tackle, apparel, and furniture, and that this honorable court will pronounce for his aforesaid demand and de-

154 cree the same to be paid with costs, and for such other and further relief and redress as to right and justice may appertain.

(Signed) M. M. COHEN, *Proctor.*
(Signed) C. W. WILSON.

Sworn to and subscribed before me this 14th July, 1871.
(Signed) J. A. CHARBONNET, *D'y Clk.*

Annexed bill of C. W. Wilson for $130.65.

Appraisement, bill, and letter.—Filed July 18th, 1872.

United States appraiser's report, confiscated property, &c.

W'M DOYLE *vs.* ST'R LOTAWANNA. } No. 9732.

To the honorable district court for the eastern district of Louisiana:

We, the undersigned, appraisers to this honorable court, duly appointed and sworn, have the honor to report:

155 That on the 27th day of June, 1871, we proceeded to inspect the below-described property for the purpose of ascertaining its value at that time, and after a careful and thourough examination, find that the present cash value is as set opposite the property below.

No.	Description of property.	Value.
	STERN-WHEEL.—The stern-wheel steamer Lotawanna is 479 $\frac{22}{100}$ tons burden; was built at Marietta, Ohio, in October, 1867; is 3 years and eight months old; stands 2d class, or A 2; has outside stern-wheel; 3 boilers twenty feet long, 40 inches diameter of cylinder; 2 fire-engines and a doctor; double stagg-stern; 4 rudders; square knuckle, with cocked hot-foot hooks fore and aft; four large single timbers, 13 to 17-inch centres, 9½ clamps on each side; double kelson, and straight-plank bulk-head from end to end; oak beams; plank butt-botler; has a good stern-wheel; is sound, tight, and in good order in 1868, and	

was docked and thoroughly repaired and put in good
156 order to the entire satisfaction of the marine inspectors of the N. O. insurance companies, in July, 1870. She is 155 feet long, 37 feet breadth of beam, 5½ feet depth of hold; has a fine-finished cabin, 23 state-rooms, 45 berths, spring mattresses very plentifully supplied with sheets; pillow-cases. Pantry well furnished with crockery, glass-ware, silver-plated ware, kitchen-utensils, 2 large ice-boxes—a full inventory of which is on board and also in the marshal's office. Has steam-capstain and derricks and a negro-engine for taking in and discharging cargo; draws 30 inches of water light, and carries 2,200 bales cotton; is in perfect order for a trip, having a quantity of wood and coal on board; is very dry and tight, and is valued at this time cash in U. S. Treasury-notes....Nine thousand dollars.

Lays at the foot of Washington street, where she can be seen by taking the New Levee street-cars.

(Signed) H. G. HEARTT,
U. S. Appraiser, N. O.

Letter.—Filed July 18th, 1871.

157 U. S. circuit and district court, New Orleans, June 27th, 1871.

(Copy.)

WM DOYLE
vs.
ST'R LOTAWANNA. } No. 9732.

U. S. district court, Hon. E. H. Durell, presiding.

The court appraiser will appraise, for sale by the marshal, the above steamer, and make your report in accordance with the rules made and provided by the court.

(Signed) M. A. FOUTE,
Att'y for Morgan.

(Signed) PERCY ROBERT,
For George Ellis.

To H. G. HEARTT,
U. S. Appraiser.

Letter.—Filed June 20th, 1871. (*Copy.*)

WM DOYLE
vs.
ST'R LOTAWANNA. } No. 9732. U. S. circuit & district court.

APPRAISER'S DEPT.,
OFFICE CUSTOM-HOUSE BUILDING,
New Orleans, June 27th, 1871.

U. S. district court, Hon. E. H. Durell, presiding.

158 The court appraiser will appraise, for sale by the marshal, the

above steamer, and make your report in accordance with the rules made and appointed by the court.

(Signed) SEMMES & MOTT,
Proctors for Intervening Libellants.

To H. G. HEARTT, Esq.,
U. S. Court Appraiser.

Bill.—Filed July, 1871.

W'M DOYLE
vs.
STEAMB'T LOTAWANNA. } No. 9732. U. S. district court.

APPRAISER'S DEPARTMENT,
New Orleans, June 27th, 1871.

To appraiser's office, Dr.

1871.
June 27. For examination, appraisement, and ascertaining market value of property and merchandise, as per appraisement rendered.
Appraised for 9,000.
Sold for a pr. ct.
Confiscated property.

U. S. district court, New Orleans, July 19th, 1871.

W'M DOYLE
vs.
ST'R LOTAWANNA. } No. 9732.

159 *To appraiser's office, Dr.*

H. G. Heartt, for examination, appraisement, ascertaining income, &c., on property of $9,000 appraisement, sold for $7,500, at 2% to Mr. Herron..... $150 00

Testimony and note filed July 18th, 1871.

W'M DOYLE & AL.
vs.
ST'R LOTAWANNA. } No. 9732.

Testimony taken before K. Loew, U. S. com'r, July 18th, 1871.

Present, I. P. Small, B. Egan, Rob't Mott.

ON CLAIM OF FANNY STROOP.

W. G. MALTBY, sworn, says:

I work for Fanny Stroop. The bill sued on is correct. 94 is due. All the things were sold for the use of the boat. No cash advances. She has received on account $50, leaving a balance of $94 due. Counsel asked for detailed bill, which Mrs. Stroop will furnish.

(Signed) W. G. MALTBY.

Sworn to and subscribed before me this 18th July, 1871.

(Signed) K. LOEW, *U. S. Com'r.*

160 ON CLAIM OF D. HUGHES.

The note referred to in the testimony previously taken is now produced and surrendered, and marked X.

D. HUGHES examined by Mr. Mott:

This note has been discounted by the People's Bank. On the evening of the day the note had been executed, the words "Steamer Lotawanna and owners" were added by Captain McComas over his signature.

(Signed) DAVID HUGHES.

Sworn to and subscribed before me this 18th July, 1871.

(Signed) K. LOEW, *U. S. Com'r.*

Annexed bill X, filed July 18th, 1871.

$302.28] NEW ORLEANS, *March 31st*, 1871.

Two months after date I promise to pay to the order of D. Hughes three hundred and two $\frac{28}{100}$ dollars at Louisiana National Bank. Value received.

STEAMER LOTAWANNA AND OWNERS,

(Signed) H. G. McCOMAS, *Master.*

No. . Due .

On reverse side of bill and in red ink, as follows:

2,317. H. G. McComas. 30,228. 31st May, 1871.

161 *Intervening libel of A. D. Finley & Co., filed July 18th, 1871.*

W'M DOYLE AND OTHERS *vs.* ST'R LOTAWANNA. } No. 9732.

U. S. district court, at New Orleans, sitting in admiralty.

To the honorable judge of the district court of the United States, sitting in admiralty at New Orleans for district of Louisiana:

Your petitioners, A. D. Finley & Co., a commercial firm, doing business at New Orleans, composed of A. D. Finley and T. Borden Ave, now residing within the district aforesaid, exhibits this their intervening libel against the steamer Lotawanna, whereof H. G. McComas was late master, now being in the custody of the marshal of said district under arrest, in virtue of a warrant issued in the above-entitled suit, in a cause of contract, civil and maritime, her tackle, apparel and furniture, and against all persons lawfully intervening for their interest herein in a cause of contract, civil and maritime; and thereupon the said

162 A. J. Finley & Co. do allege and articulately propound as follows:

1st. That the said steamer Lotawanna, being of more than 20 tons burthen and employed in navigating the waters within the jurisdiction of this honorable court, and taking her departure frequently from the port of New Orleans to other ports beyond the State of Louisiana, your petitioners at the special instance and request of said master McComas and others, duly authorized agents, at sundry times between

March 31st, 1871, and May 22d, 1871, both dates inclusive, furnished, and delivered to said steamer Lotawanna, for her use and benefit, certain provisions, supplies and milk.

The several dates and the aggregate amount are correctly set forth in a statement a'c hereunto annexed as a part hereof.

2d. That said supplies amount in all to twenty-two $\frac{50}{100}$ dollars, ($22.50,) were necessary, suitable, and proper for the purpose of enabling said steamer Lotawanna be continued in her said employment.

163 3d. That said supplies were furnished by libellants upon the credit of said steamer Lotawanna as well as the said master, and owners, and officers of said vessel.

4th. That said sum twenty-two $\frac{50}{100}$ dollars ($22.50) is wholly due and exigible, though amicable demand has been repeatedly and fruitlessly made.

5th. That all and singular the premises are true.

Wherefore petitioners pray that this intervening libel be filed, that petitioners have, after due and final proceedings herein, a decree in their favor for said sum of twenty-two $\frac{50}{100}$ dollars, ($22.50,) with legal interest from March 31st, 1871, until paid, with admiralty, lien, and privilege on said steamer, her tackle, apparel, and furniture, or the proceeds of her sale.

That said debt and interest be paid libellants out of the proceeds of said steamer Lotawanna in the registry of the hon. court; and for a general relief in the premises according to due course of proceedings in courts of admiralty.

(Signed) M. A. FOUTE, *Proctor.*

164 (Signed) A. D. FINLAY & CO.

Sworn to and subscribed before me this 18th July, 1871.

(Signed) K. LOEW, *U. S. Com'r.*

Annexed bill of A. D. Finlay & Co., of July 10th, 1871, amounts to $22.50.

Intervening libel of Wallace and Co., filed July 19th, 1871.

W'M DOYLE
vs.
STEAMBOAT LOTAWANNA. } No. 9732.

In the United States district court for the district of Louisiana.

To the Honorable E. H. Durrell, judge of the said district:

Wallace and Co., a commercial firm domiciled in the city of New Orleans, and composed of David Wallace and James Wallace, who reside in said city, exhibit this their intervening libel against the steamboat Lotawanna, now lying in the port of New Orleans, in the district aforesaid, and within the admiralty and maritime jurisdiction of this honor-

165 able court, her boats, tackle, apparel and furniture, which said steamboat is advertised to be sold by the marshal of this court, on the 19th of July, 1871, and against her proceeds and all persons lawfully intervening for their interest therein, in a cause of contract, civil and maritime.

And thereupon the said Wallace and Co. do allege and articulately propound as follows, to wit:

1st. That, at the dates mentioned in the account or schedules hereunto annexed, libellants furnished to said steamer the supplies, which supplies and the value thereof are truly and more particularly stated and described in the said schedule or accounts, and which amount to three hundred and sixteen $\frac{53}{100}$ dollars, ($316.53.)

2d. That the said supplies were so furnished by libellants, when the said steamboat was lying at the port of New Orleans in the State of Louisiana, and within the admiralty and maritime jurisdiction of the United States, and *and* on the credit of said steamboat, as well as of
166 the owners and masters thereof, and were suitable, proper, and necessary for the navigation of said boat, and the accommodation of its passengers.

3rd. That the aforesaid sum of three hundred and sixteen $\frac{53}{100}$ dollars remains wholly unpaid and due to the libellants, although they have often requested the master of the said steamboat to pay the same.

4th. That all and singular the premises are true.

Wherefore libellants pray leave to intervene on this libel No. 9732, and that process in due form of law may issue aginst the said steamboat Lotawanna, her boats, tackle, apparel, and furniture; and that this honorable court will pronounce for their aforesaid demand, and decree the same to be paid with costs, and for such other and further relief and redress as to right and justice may appertain.

(Signed) E. JAY FELLOWES,
Proctor.

(Signed) WALLACE & CO.

Sworn to and subscribed before me this 19th July, 1871.

(Signed) K. LOEW, *U. S. C'r.*

167 Annexed bill of Wallace & Co., dated January 23rd & 24th, 1871, amounts to $316.53.

Wharfage-claim, City of New Orleans, filed July 19th, 1871.

$80.00.] [No. 9732.

Wharves & Levees, No. 6960.
CITY OF NEW ORLEANS,
DISTRICT NO. THREE.

Received from , eighty dollars, amount of levee-dues on steamer Lotawanna, measuring tons, at per ton, from July 4th, 1871, to July 19th, 1871.

New Orleans, 1871.

F. W. OBERLANDER,
For Administrator of Public Accounts, Collector.

Testimony on various claims filed July 3d, 1871.

W'M DOYLE & AL. *vs.* ST'R LOTAWANNA. } No. 9732.

MONDAY, *July 3rd*, 1871.

Present, B. Egan and Rob't Mott.

ON CLAIM OF SOUTHERN DRY-DOCK COMPANY.

D. H. CONNOR, being first duly sworn, says:

Am in the employ *in* the Southern Dry-Dock Company. The
168 bill annexed to their intervention is correct in dates and amount. It is for repairs done to, and materials furnished to the steamer Lotawanna.

The work was commenced, on 16th January, 1871, and finished on the day the bill was made, on 20th January, 1871. I superintended the repairs. The work was necessary to the boat.

I cannot say that the repairs were absolutely necessary to enable her to prosecute her voyages, but she was ordered on the dock by the inspector of the board of underwriters.

The object of the repairs was to make her seaworthy. I believe the Lotawanna was in the Red-River trade. The prices charged for the work are just and reasonable, and the regular prices.

The balance due is $302.00, as stated in the bill.

Cross-examined:

We never received anything but $197.41 on ac. of that bill. I think, but am not sure, that a note was taken for the balance of the bill; am not quite sure.

Don't know.

169 (Signed) D. H. CONNOR.

Sworn to and subscribed before me, July 3rd, 1871.

J. A. CHARBONNET,
D'y Clerk.

ON CLAIM OF CONERY SON & CO.

L. B. CLARK, being first duly sworn, says:

Am in the employ of E. Conery, Son & Co., as entry-clerk and salesman. The bills annexed to libel of intervention of E. Conery, Son & Co. are correct in dates and amounts. They are for stores furnished for the use of the steamer Lotawanna at the dates mentioned in the bill. The boat was then running between New Orleans and Jefferson, Texas, carrying freight and passengers for hire, making two trips a month. The stores were used on board the boat by the officers, crew, and passengers on board. She could not have proceeded on her voyage without the stores.

The prices charged are just and reasonable. They were furnished on the credit of the boat.

170 The quantity of stores furnished to her is the same as that furnished to boats of similar size; I mean the usual quantity used by boats of similar size engaged in similar trade.

Cross-examined:

I don't think any of the eight bills was ever paid. Don't know nothing of the transactions between E. Conery, Son & Co. and Captain McComas. I know, of my own knowledge, that every item of those accounts was furnished to the steamer Lotawanna by E. Conery, Son & Co.

(Signed) L. B. CLARK.

Sworn to and subscribed before me, July 3rd, 1871.

(Signed) J. A. CHARBONNET,
D'y Clerk.

JOHN MÉNGE, being first duly sworn, for E. Conery & Son, says:

Am a member of the firm of E. Conery, Son & Co. The bills annexed to our intervention are correct. It is for stores and supplies furnished to the Lotawanna at the dates mentioned in said bills. The prices claimed are just and reasonable, and the usual market-
171 prices at the time.

The amount now due is $2,000.52. The boat was then running between New Orleans and Jefferson, Texas, making two trips a month. She could not have prosecuted her voyages without these stores.

The stores sold on the credit of the steamer Lotawanna. She is of about 1,900 bales cotton capacity. She has had over 2,000 bales. I suppose she is of about 650 tons burthen.

The stores sold by us is about the usual quantity furnished to boats of her size engaged in similar trade.

Cross-examined:

I don't know of my own knowledge that every item of these bills was furnished to the boat. Don't know that any of these bills have been paid, wholly or in part on ac. of the boat. It is customary for us to allow ac. to run from the month of February to the 31st May without getting payments on ac.

We had another ac. with the steamer Lotawanna, which we keep
172 with all steamboats, being a cash ac. That account received credits between the 27th February and 31st May, and 15th June, 1871.

I will furnish a statement of that account to be annexed to my deposition, containing dates and amounts. The cash ac. will explain itself.

Redirect:

I know that no part of the bills filed have been paid.

The cash account has nothing to do with the store account. It's separate entirely. I brought no suit on the cash account. The cash account includes every transaction outside of the store account.

(Signed) J. H. MENGE.

Sworn to and subscribed before me July 3d, 1871.

(Signed) J. A. CHARBONNET, *D'y Clk.*

ON CLAIM OF P. C. M'CAN & SON.

CHARLES P. MCCAN, being first duly sworn, says:

Am a member of the firm of McCan and Son. The bill annexed to our intervention is correct in dates and amount.

173 It is for materials furnished to the Lotawanna about the dates mentioned in the bill. The prices charged are reasonable. The balance now due is $473.05. Credit was given to the boat when the materials were furnished. The boat was engaged in the Red River trade between New Orleans and Jefferson, Texas. The materials were necessary to enable her to prosecute her voyages. She could not very well run without them.

Cross-examination:

No portion of that balance of $473.05 has ever been paid. Captain McComas gave the note as master, for the owners of the boat, for a part of the balance—(for about $200.)

Don't know where is the note.

(Signed) D. C. McCANN & SON.

Sworn to and subscribed before me, July 3d, 1871.
(Signed) J. A. CHARBONNET, *D'y Clk.*

Adjourned till Wednesday, July 5th, 1871, at 11½ a. m.

WEDNESDAY, *July 5th*, 1871.

174 Present, Messrs. B. Egan and R. Mott and M. A. Foute, on a claim of H. J. Baer.

H. J. BAER, being first duly sworn, says:

The bill annexed to my intervention is correct in dates and amount. It is for services rendered to the boat as agent at the dates mentioned in said bill. The prices charged are the usual and customary prices for such service. It was necessary for the Lotawanua to have an agent to perform the service rendered by me. Amount due me $100.

No cross-examination.

ON CLAIM OF W'M M. SURLS.

Bill of W'm M. Surls amounting to $40 is correct.

It is for the same kind of services as those rendered by me. Captain McComas told me his bill was correct. I know that he acted as agent to the steamer Lotawanna at the dates mentioned in bill.

My bill is larger because I performed services for two trips of
175 the boat, and he for one trip only. Some boats have 3 and 4 agents. Amount due Surls is $40.

No cross-ex:

(Signed) H. J. BAER.

Sworn to and subscribed before me July 5th, 1871.
(Signed) J. A. CHARBONNET, *D'y Clk.*

ON CLAIM OF SHELLY & CO.

H. J. BAER, sworn, says:

Bill annexed to intervention is correct in dates and amount. The prices just and reasonable, and meat, &c., sold for use of the boat. I know personally it was sold to the Lotawanna. Amount now is $156.76. The meat was charged to the boat. The boat engaged in commerce and navigation between New Orleans and Jefferson, Texas, and I should judge the meat, &c., was necessary to enable her to prosecute her voyages.

No cross-examination:

Same witness recalled for W'm M. Surls says: Surls claim amounts to
$80.60 instead of $40, as stated in my testimony given a moment
176 ago, and I will further add, that it is for two agencies.
(Signed) H. J. BAER.

Sworn to and subscribed before me, July 5th, 1871.
(Signed) J. A. CHARBONNET, *D'y Clerk.*

ON CLAIM OF W'M M. SURLS.

W'M M. SURLS sworn for himself says: Was agent for the steamer

Lotawanna during the time she was running, and the bills annexed to my intervention are for the two last trips she made. I suppose my services were necessary as boats generally employ freight agents. My services consisted in soliciting freight, securing it, seeing it on board, advertising the boat, attending to the boat's business and signing B. L. A boat's agent duties don't cease when the boat leaves port, they continue during the boat's absence.

The prices charged by me are just and reasonable. The Lotawanna now owes me $80.60 for the services enumerated above. The
177 credit was given to the boat and captain.

(Signed) W'M M. SURLS.

Sworn to and subscribed before me, July 5th, 1871.

(Signed) J. A. CHARBONNET, *D'y Clk.*

ON CLAIM OF M. B. ROSS.

M. B. ROSS, first duly sworn, says:

Am a steamboat agent, and as such was engaged by Captain McComas, late of the steamer Lotawanna.

The bill annexed to my libel is correct, for $35, and the amount is still due me for my services as agent in the month of May, 1871. My services were necessary to the boat. The prices charged therefor just, proper, and reasonable. Services rendered on credit of the boat. It is usual for boats in the Red River trade to have two and three agents. Some have four. The services performed by the agent are such as are enumerated by Mr. Surls, the preceeding witness.

(No cross-examination.)

(Signed) M. B. ROSS.

178 Sworn to and subscribed before me, July 5th, 1871.

(Signed) I. A. CHARBONNET, *D'y Clk.*

ON CLAIM OF D. HUGHES.

DAVID HUGHES, sworn for himself, says:

The nine bills annexed to my intervention are correct in dates and amounts, and the amount due me by the steamer Lotawanna is $393.98. It is for bread, crackers, and other things of that kind furnished to the steamer Lotawanna at the dates mentioned in said bills. They were used on board of the boat by the officers, crew, and passengers thereof. The boat could not have prosecuted her voyages without them. Credit for the same was given to the boat. Boat was running between New Orleans and Jefferson, Texas, making about two trips a month.

The prices charged are just and reasonable, and the usual prices at the time.

Cross-examination:

179 No portion of the nine bills has ever been paid by the boat, or other person for the boat. I have taken a note of Captain McComas for the amount of $303[.00] and some cents. I think I can find the note, and will furnish it.

Redirect:

Captain McComas gave it to me in settlement of my bill. My understanding was that if the note was not paid at maturity, I would still have the privilege to fall back on my bill.

Re-cross:

I told Captain McComas at the time I took the note that I took it in acknowledgment of my bill. I told him if the note was not paid at maturity I would look to the bill for payment. I gave a receipt for the note.

(Mr. R. Mott objects to all the testimony upon the subject of the conditions under which the note was given, as a written receipt for the same was given.)

Captain McComas himself gave me the note.

I think I receipted some of the bills against the boat.

180 Redirect:

Am not in possession of the receipt for the note; don't know what has become of it.

(Signed) D. HUGHES.

Sworn to and subscribed before me, July 5th, 1871.

(Signed) J. H. CHARBONNET, *D'y Clerk.*

ON CLAIM OF ENGLAND, TALLON & CO.

RICHARD ENGLAND, sworn, says:

The bill annexed to my intervening libel is correct in dates and amounts. It is for fish delivered to the steamboat Lotawanna at the dates mentioned in bill, and I suppose they were used on the boat, and were necessary as supplies to said boat.

The Lotawanna was engaged in commerce and navigation at the time between New Orleans and Jefferson, Texas, and the various intermediate points. The prices charged are the customary charges, and credit was given to the boat for the supplies. Amount due us is $185.00.

Cross-examination:

181 No portion of my bill has been paid by the boat, nor has any one paid any part of it for the boat. Took a note of $109.00 from Captain McComas, who signed it as captain and owner for the Lotawanna. Don't recollect whether I gave a genuine receipt or receipted the bill.

Redirect:

I pressed Captain McComas very much for my money on that trip, and he gave me the note, and told me to go and get my money on it, and therefore did not enter it on my ledger. I gave a receipt for the note in the following words:

"Received payment, by note, $109."

This is as near as I can recollect the words of the receipt. Captain McComas' intention in giving me the note was to enable me to raise money on it, and to give him credit for whatever amount I might raise on it, but I never got any.

(Signed) R. ENGLAND.

Sworn to and subscribed before me, July 5th, 1871.

182 (Signed) J. A. CHARBONNET, *D'y Clk.*

ON CLAIM OF W'M H. MORGAN.

W'M H. MORGAN, being first duly sworn, says:

Bill annexed to my intervention is correct in dates and amount, and

the balance of $38.00 therein appearing is now due and owing by the steamer Lotawanna and her owner.

The supplies furnished consisted of oysters, and were necessary supplies to the boat, and furnished at the instance and request of her captain. The boat was running at the time in the Red River trade, between New Orleans and Jefferson, Texas. The supplies were furnished upon the credit of the boat.

(Signed) W'M H. MORGAN.

Sworn to and subscribed before me, July 5th, 1871.

(Signed) J. A. CHARBONNET, *Dy Clerk.*

ON CLAIM OF M'CLOSKEY, BIGLEY & CO.

183 JACK CLARK, being first duly sworn, says: I sold the coal myself, and delivered it on the steamer Lottawanna. Credit was given to the boat. I know the two due-bills annexed to the intervention are correct, and were given for coal delivered to the boat at dates therein mentioned; $335 is the amount now due.

Cross-examined:

I never received any payment on a/c of the due-bills. No part ever paid. Never received a note for it.

(Signed) JACK CLARK.

Sworn to and subscribed before me, July 5th, 1871.

(Signed) J. A. CHARBONNET, *Dy Clk.*

In compliance with the request made to Mr. Menge, on the 3rd instant, he now produces the cash account referred to in his testimony given on that day.

Witness now adds that he brought no suit on the cash a/c.

All the transactions outside of the store account are included in the cash account.

184 It is called the "cash account," because it is kept separate from the store account.

Cash advances are always extinguished by cash collections.

Cross-examined:

The first item in the account is for our note loaned to McComas for $6,000, which he subsequently paid. That note was paid by McComas on the 28th of March, as appears by the account.

When the Lotawanna would come in port and hand us her freight-bills, we made cash advances to her, and re-imbursed ourselves by collecting the freight-bills.

Sometimes the boat would draw against the freight-bill; we accepted the drafts and re-imbursed ourselves by collecting the freight-bills.

(Signed) J. H. MENGE.

Sworn to and subscribed before me, July 5th, 1871.

(Signed) J. A. CHARBONNETT, *Dy Clk.*

CLAIM OF E. CONERY SON & CO. CONTINUED.

Mr. TOOMEY, being first duly sworn, says:

185 Am in the employ of Conery, Son & Co.

Bills annexed to intervention are correct in dates and amounts. They are for stores sold to the steamer Lotawanna, by E. Conery, Son & Co., at the dates mentioned in bills.

I put a portion of them up myself, and superintended putting up the balance. They are the usual and necessary supplies for a boat engaged in the trade she was prosecuting. She was running between New Orleans and Jefferson, Texas, carrying freight and passengers, making on an average about two trips a month.

She could not have prosecuted her voyages without them or similar supplies. She owes us $2,006.52, as appears by the bills.

Credit was given to the steamboat Lotawanna.

Cross-examined:

Know nothing about the cash account. These were all the groceries that were furnished the boat during the time that we transacted business with her, so far as I know.

186 (Signed) JNO. S. TOOMEY.

Sworn to and subscribed before me, July 5th, 1871.

(Signed) J. A. CHARBONNET, *D'y Clk.*

Note of $302.00 given to the Southern Dry-Dock Company is now surrendered by Mr. B. Egan, the proctor for said Dry-Dock Company, to be filed among the records of the case.

ON CLAIM OF G. G. POINET.

G. G. POINET, being first duly sworn, says:

Bills annexed to my intervention are correct in dates and amounts. It is for liquor furnished to the master and crew of the Lotawanna at the request of the master. Part of it for wine used on the captain's table.

The boat now owes me a balance on these bills of $68.

The liquor was given to the crew to induce them to work.

No cross-examination.

(Signed) G. G. POINET.

Sworn to and subscribed before me, July 5th, 1871.

187 (Signed) J. A. CHARBONNET, *D'y Clk.*

Adjourned till Thursday, 13th inst., at 11½ a. m.

NEW ORLEANS, *July* 13*th*, 1871.

Mott and Egan present.

By consent of counsel, the further examination of witnesses is adjourned till Tuesday, 18th inst., at 11½ a. m.

W'M DOYLE ET ALS. *vs.* ST'R LOTAWANNA. } No. 9732.

TUESDAY, *August* 1*st*, 1871.

Present, B. Egan and Rob't Mott.

B. EGAN, esq., proctor for R. England and D. McCan and Son, now surrenders the notes given to said parties by Captain McComas, and requests that the same be filed among the records of the above cause.

A. D. FINLAY AND CO.'S CLAIM.

A. D. FINLEY, being first duly sworn, says:

188 The bill annexed to my intervention is correct in dates and amount. It is for milk furnished to the boat, at the dates mentioned in bill, and the amount now due is $22.30. Milk used on the boat as supplies, and was necessary.

(Signed) A. D. FINLAY.

Sworn to and subscribed before me, August 1st, 1871.

(Signed) J. A. CHARBONNET, *D'y Clk.*

ON CLAIM OF J. A. BROWN.

JOSEPH A. BROWN, being first duly sworn, says:

My claim is for lumber furnished to repair the steamer Lotawanna. The amount due is $314 and some cents; say $314.15.

A note was given me by Captain McComas in acknowledgment of the debt.

The boat was at the time undergoing repairs, and the lumber was necessary to make the repairs.

The note given I now surrender.

Cross-examined:

I received no money on account of my claim.

(Signed) JOS. A. BROWN.

Sworn to and subscribed before me, August 1st, 1871.

(Signed) J. A. CHARBONNET, *D'y Clk.*

189 Annexed bill surrendered and filed. August 1st, 1871.

$277.66.] NEW ORLEANS, *May 2d*, 1871.

Two months after date I promise*d* to pay to the order of Messrs. D. C. McCann and Son two hundred and seventy-seven $\frac{66}{100}$ dollars at the Louisiana National Bank, value received.

ST'B'T LOTAWANNA & OWNER.
H. G. McCOMAS.

No. . Due July 25.

(On reverse:) No. 9732. Surrendered and filed August 1st, 1871.

(Signed) J. A. CHARBONNET, *D'y Clk.*

Annexed bill surrendered and filed. August 1st, 1871.

$109.] NEW ORLEANS, *March 31st*, 1871.

Two months after date I promise to pay to the order of England, Tallon & Co. one hundred and nine dollars at Louisiana National Bank, value received.

STEAMER LOTAWANNA AND OWNERS.
H. G. McCOMAS, *Master.*

No. due.

190 (On reverse:) 9732. Surrendered and filed August 1st, 1871.

(Signed) J. A. CHARBONNET, *D'y Clk.*

Annexed bill surrendered and filed August 1st, 1871.

[United States revenue stamp affixed, and not cancelled, to amount of 20 cents.]

$314.15.] NEW ORLEANS, *May 17th*, 1871.

Two months after date I promise to pay to the order of Jos. A. Brown three hundred and fourteen $\frac{15}{100}$ dollars, at Pike, Brothers & Co., value received for materials furnished.

No. . Due July 17, '20.

H. G. McCOMAS,
Master Steamboat Lotawanna.

(On reverse:) 9732. Surrendered and filed August 7th, 1871.
(Signed) J. A. CHARBONNET, *D'y Clk.*
JOS. A. BROWN.

Testimony for C. W. Wilson and Bostick and Seymour.—Filed August 8th, 1871.

191 W'M DOYLE & ALS. *vs.* ST'R LOTAWANNA. } No. 9732.

Testimony taken before the clerk this 8th August, 1871.

Present, B. Egan and M. M. Cohen. Mr. Mott not present.

ON CLAIM OF C. W. WILSON.

CHARLES W. WILSON, being first duly sworn, says:

The bill annexed to my intervention in this cause is correct in dates and amount. It is for painting the steamer Lotawanna at the dates mentioned in the bill.

The prices charged for the same are just and reasonable, and the usual prices at the time. The painting was necessary to enable the boat to prosecute her business.

She was engaged in commerce and navigation between this port and Jefferson, Texas. The work was done at the request of the captain and on the credit of the boat, and the balance due me is $130.65.

I received no note from Captain McComas or any one else in settlement of any debt.

192 (Signed) C. W. WILSON.

Sworn to and subscribed before me August 8th, 1871.
(Signed) J. A. CHARBONNET, *D'y Clk.*

ON CLAIM OF BOSTICK & SEYMOUR.

L. L. COHEN, being first duly sworn, says:

Am book-keeper for Bostick and Seymour. The bill annexed to their libel is correct in dates and amount. It is for wire tiller rope and copper wire sold to the Lotawanna on 14th March, 1871, as stated in the bill. This was necessary to enable the boat to prosecute her voyages. She was engaged in commerce and navigation between New Orleans and Jefferson, Texas. The prices charged are just and very reasonable, and the usual ones at the time.

The goods were bought by the master of the boat for her.
No note given Bostick and Seymour by any one in settlement of their claim. Credit was given to the boat for these goods.
193 The amount now due is $116.63.
(Signed) L. L. COHEN.

Sworn to and subscribed before me August 8th, 1871.
(Signed) J. A. CHARBONNET, *D'y Clk.*

Intervening libel of J. Sharp McDonald.—Filed August 12th, 1871.

W'M DOYLE & ALS.
vs.
STEAMER LOTAWANNA. } No. 9732.

To the Honorable E. H. Durell, judge of the United States district court for the district of Louisiana:

The libel of intervention of J. Sharp McDonald, who resides in Pittsburgh, in the State of Pennsylvania, and who carries on the business of coal-merchant at Baton Rouge, in the State of Louisiana, through his agent, J. B. Leggett, against the steamboat Lotawanna, whereof Henry G. McComas late was master, or her proceeds now in the registry of this honorable court, and against all persons intervening for their
194 interest therein, in a cause of contract, civil and maritime, and therefore the said J. Sharp McDonald alleges and articulately propounds as follows:

First. That the steamboat Lotawanna, whereof H. G. McComas late was master, was, in the months of February, March, April, and May, 1871, engaged in commerce and navigation between the ports of New Orleans, and Jefferson, in the State of Texas, carrying freight and passengers for hire.

Second. That, at the date hereinafter mentioned, the said boat having made landings at the port of Baton Rouge whilst des*i*gned on her said voyages, and being in need of coal to prosecute the same, your libellant, at the special request of the master thereof, did furnish, sell, and deliver to said boat the following lots of coal, to wit: On the 28th February, 1871, 475 boxes, at 65 cents per box; on the 11th March, 1871, 150 boxes, at same price; on the 18 of March, 1871, 395 boxes of coal, at the same price; on the 27th March, 1871, ;
195 on the 1st of April, 1871, 589 boxes coal, at same price; on 10th of April, 1871, 200 boxes of coal, at same price; on the 15th of April, 727 boxes of coal, at 60 cents per box; on the 26 of April, 1871, 150 boxes of coal, at 60 cents per box; and on 4th of May, 1871, 615 boxes of coal, at the same rate—making a total two thousand and one hundred and sixty-two $\frac{70}{100}$ dollars, now due libellant; all of which will be seen by reference to the bill of items hereto annexed and made part hereof.

Third. That said steamboat is now justly and truly indebted to your libellant in the full sum of two thousand and one hundred and sixty-two $\frac{70}{100}$ dollars, for coal sold and delivered by libellant to her as above set forth; that said coal was used on board of said boat as fuel, and was absolutely and indispens*i*bly necessary to enable her to prosecute her aforesaid voyages; that the prices charged for the same are
196 just and reasonable and *and* the usual prices at the time, and the credit for the same was given to the boat alone.

Fourth. That said boat has been sold by virtue of an order issued

from this honorable court in this suit, and the proceeds thereof are now in the registry of this honorable court awaiting distribution.

Fifth. That all and singular the premises are true and within the admiralty and maritime jurisdiction of this honorable court.

Wherefore, libellant prays that this libel of intervention be filed, that process in due form of law and according to the course of this honorable court in causes of admiralty and maritime jurisdiction may issue against the proceeds of said steamboat Lotawanna, now in the registry of this honorable court, and that all persons claiming any interest in said proceeds be cited to answer the matters aforesaid, and after due proceedings had, that this honorable court will be pleased to de-
197 cree that libellants' aforesaid claim be paid with costs and for general relief.

(Signed) TRIST & OLIVIER, *Proctors.*

VICTOR OLIVIER, J'r, being sworn, says that he is one of the proctors of the libellant, J. Sharp McDonald, who resides out of the State; and that all the facts and allegations in said intervening libel set forth are true to the best of his knowledge and belief.

(Signed) VICTOR OLIVIER, J'R.

Sworn to and subscribed before me August 12th, 1871.

(Signed) J. A. CHARBONNET, *D'y Cl'k.*

Annexed bill of items amounts to $2,162.70.

Intervention of W'm Wade for wages as mariner, and bill.—Filed August 16th, 1871.

W'M DOYLE ET AL. *vs.* ST'R LOTAWANNA. } No. 9732.

198 To the Honorable E. H. Durell, judge of the United States district court for the district of Louisiana:

The libel of intervention of W'm Wade, a resident of the city of New Orleans, and late a mariner on the steamer Lotawanna, whereof H. G. McComas late was master, against said steamer Lotawanna, or her proceeds, now in the registry of this honorable court, and against all persons intervening for their interest in said vessel or proceeds in a cause of subtraction of wages, civil and maritime, alleges as follows:

1st. That the steamer Lotawanna, whereof H. G. McComas late was master, was, in the months of March, April, and May, 1871, engaged in commerce and navigation between the ports of New Orleans and Jefferson, in the State of Texas, and various intermediate ports and places, carrying freight and passengers for hire, and making on an average about two trips per month to and from the port of New Orleans.

199 2d. That, on the 15th of March, 1871, said boat being in the port of New Orleans and designed on her aforesaid voyages, the master, H. G. McComas, shipped and hired your libellant to serve on board her as steersman, at the rate of wages of sixty dollars per month; that libellant immediately entered on board and into the services of said in the capacity and for the wages aforesaid, and continued in her services as such from the 15th of March up to and including the 15th of May, 1871, being full two months, when the boat laid up for a season, and

libellant was discharged, having received on account of his wages at various times various sums of money, amounting in all to $62.40, leaving a balance due him for said services of fifty-seven $\frac{60}{100}$ dollars, all of which will more fully appear from the bill annexed and made part hereof.

3rd. That, during the whole time libellant was employed on said boat, he well and truly performed the duties for which he was shipped,
100 and was obedient to all the commands of the master and other officers of said boat, and well and truly deserved the wages herein claimed.

4th. That said steamer Lotawanna has been seized and sold by virtue of admiralty process, issued from this honorable court in the above cause, and the proceeds of said sale are now in the registry of this honorable court awaiting distribution in the above cause.

5th. That all and singular the premises are true and within the admiralty and maritime jurisdiction of this honorable court.

Wherefore, libellant prays that this libel of intervention be filed, and that due process of law and according to the course of this *of this* honorable court in causes of admiralty and maritime jurisdiction may issue against the said steamer Lotawanna or her proceeds, and that all persons claiming any interest in the same may be cited to answer
201 the matters aforesaid, and, after due proceedings had, that this honorable court will be pleased to decree the payment of libellants' aforesaid claim, with costs and privileges on the same, and libellants prays *prays* for general relief.

(Signed) BENTINCK EGAN, *Proctor.*
(Signed) W'M WADE.

Sworn to and subscribed before me, this 16th August, 1871.
(Signed) K. LOEW, *U. S. C.*

Balance due by annexed bill, amounts to $57.60.

No. 9732. Bill of Pelican Printing Office, filed September 29th, 1871, amounts to $6.50.

Testimony of Ritchie.—Filed November 2d, 1871.

W'M DOYLE & AL. } No. 9732.
vs.
ST'R LOTAWANNA. }

ROBERT RITCHIE, being duly sworn for self, says was hired as
202 sailor-man on the steamer Lotawanna, by R. Isham, mate of said boat, at the rate of $40 a month. I worked on board from 14th to 21st May, 1871, and the amount now due me is $8, as will appear by reference to due-bill filed and marked 9.

(Signed) ROBERT RITCHIE.

Sworn to and subscribed before me, November 2d, 1871.
(Signed) J. H. CHARBONNET, *D'y Clk.*

Annexed bill filed November 2d, 1871. No. 9732.

Robert Ritchie, the bearer, was employed on the steamer Lotawanna as sailor man, at forty dollars per month, and there is six days still due him, from 14th to 21st.

(Signed) R. ISHAM, *Mate.*

Order and subpœna duces tecum.—Filed November 24th, 1871.

W'M DOYLE & AL.
vs.
STEAMBOAT LOTAWANNA. } No. 9732.

203 United States district court for Louisiana.

On motion of Semmes and Mott, proctors of A. Shelly & Co., and on suggesting that the books and papers of the steamboat Lotawanna are partly in the hands of S. B. Packard, United States marshal, and partly in the hands of P. B. Foulke, administrator of the succession of Harry G. McComas; that the examination of witnesses regarding the claims against the proceeds of said boat is now progressing before the commissioners, and that the production of said books and papers before said examination of witnesses is necessary to enable the witnesses to testify advisedly, it is ordered that the said S. B. Packard, U. S. marshal, and P. B. Foulke, public administrator, do produce, in the clerk's office, at five and one-half o'clock, on Saturday next, the 25th inst., the said books and papers of the steamboat Lotawanna, now in their respective possessions.

(Signed) S. & MOTT, *Proctors.*

204 *Order of November 24th,* 1871.

This reference approved.
T. A. WOOLFLEY, *Clerk.*

*Let the books and papers called for be produced, as prayed herein.

November 24th, 1871.

(Signed) E. H. DURELL, *Judge.**

District court of the United States, district of Louisiana.

The President of the United States to S. B. Packard, U. S. marshal, and P. B. Foulke, adm't'r of succ. of Harry G. McComas :

You are hereby commanded to be and appear, and to bring with you the books and papers of the steamboat Lotawanna, now in your possession, before K. Loew, U. S. commissioner for the said district, at the city of New Orleans, on the 25th day of November, 1871, then and there to produce said books and papers, to be used on the examination of witnesses in a certain cause now depending in this court, and to be tried between W'm Doyle and others vs. steamboat Lotawanna, at o'clock m., and herein fail not under the penalty of two hundred and fifty dollars.

Witness the Honorable E. H. Durell, judge of the district court of the United States, at the city of New Orleans, this 24th day of
205 November, in the year of our Lord one thousand eight hundred and seventy-one, and in the 96th year of American Independence.

J. A. CHARBONNET, *D'y-Clerk.*

Marshal's return.

Within order & subpœna duces tecum to beserved on S. B. Packard, U. S. mar'l, and on P. B. Foulke, adm'r succ'r H. G. McComas.

Received, Nov. 24th, 1871, by the U. S. marshal, and on the 25th November, 1871, in obedience hereto, I appeared before the within-named

commissioner, with the books, &c., of the steamer Lotawanna, then in my possession.

Served a copy of this subpœna duces tecum on the 24th, on P. B. Foulke, adm'r, &c.

(Signed) JOHN FAHEY,
D'y U. S. Marshal.

NOV. 27TH, 1871.

Note surrendered and offered in evidence by Wallace and Company, Nov. 27th, 1871.

$316.53.] NEW ORLEANS, *May 18th*, 1871.

206 On the tenth of June (fixed) after date, we promise to pay to the order of Wallace & Co. three hundred and sixteen $\frac{53}{100}$ dollars at Value received.

STEAMBOAT LOTAWANNA AND OWNERS.
H. G. McCOMAS, *Master.*

Due June 10th, 10.

(On reverse:) No. 9732. Note of Wallace & Co., surrendered and offered in evidence by Wallace & Co., Nov. 27th, 1871.

J. A. CHARBONNET, *D'y-Clk.*

W'M DOYLE & AL. *vs.* ST'R LOTAWANNA. } No. 9732.

Testimony taken before K. Loew, U. S. com'r, this 22d day of November, 1871.

Present, B. Egan, Rob't Mott, R. De Gray.

ON CLAIM OF J. H. SHERMAN.

J. H. SHERMAN, being first duly sworn for self, says:

Bill of J. H. Sherman, annexed to intervention, is correct in dates and amount. The work was done as therein charged for. The prices therein mentioned and set forth were those agreed between myself and Captain McComas.

207 Amount now due me by steamer Lotawanna, is $152.35.

Cross-examined:

No note was ever given me for my bill. The work was made according to contract with Captain McComas. I agreed to put two derricks for $70—say $35 each.

The rest of the bill is for extra and repairs. I paid the blacksmith's bill—paid by me and charged to me. This work was done at my shop in New Orleans. The boat was then at foot of Washington street, in this city. She was not in the marshal's hand under seizure at the time. Never recovered anything on ac' of that bill.

Re-direct:

The Lotawanna was undergoing repairs at the time this work was done, previous to her engaging into business.

I think she was not seized by the marshal until after the death of Captain McComas. The work was all done before Capt. McComas' death.

Re-cross:

She did not make any trips after the work was completed.

208 Re-direct:

She did not make any trips on ac. of Captain McComas shooting himself.

ON CLAIM OF THO' SEWELL.

MR. SEWELL had the hoisting-cranes made at my shop, and put up. I know they were put on the boat. The price is reasonable. This work was done, I think, about two months previous to the work I made.

Cross-examined:

I don't know where the boat was owned. I am acquainted with Mr. Blood. He had nothing to do with Mr. Sewell's work. Don't know it Captain McComas or anybody paid this bill to Mr. Sewell. Blood's patent was used. Mr. Sewell had permission to use it.

(Signed) J. H. SHERMAN.

Sworn to and subscribed before me, this 22d Nov., 1871.

(Signed) K. LOEW,
U. S. Com'r.

ON CLAIM OF THO'S SEWELL.

209 J. L. PUTNAM, being first duly sworn, says:

I know that the work was done by Mr. Sewell. Did most of it myself, and helped put it on the boat. The price is a reasonable one. I went up to the boat with Mr. Sewell to try to get back the derricks. This was before Captain McComas died. They refused to give them up. He went after them because he had not been paid for them.

Cross-examined:

Mr. Sewell got possession from Mr. Blood to use the patent. Don't know if there was any contract, but know I helped put the derricks on the boat.

(Signed) G. L. PUTNAM.

Sworn to subscribed before me, Nov. 22d, 1871.

(Signed) K. LOEW,
U. S. Com'r.

J. H. SHERMAN, recalled for Tho' Sewell, says:

The day after Captain McComas shot himself, Mr. Sewell and myself went on board. The watchman who was there told us that Cap-
210 tain McComas was at his house. Mr. Sewell and me went up there and saw the mate. Mr. Sewell wanted to get permission to take the derricks down. The mate would not grant it without Captain McComas' orders, and Captain McComas was then in such a condition that we were unable to speak to him. The reason why we went after the derricks was because he hadn't been paid for them.

Cross-examined:

My bill is for an entirely different work from that of Mr. Sewell, because one is in March and the other in May.

(Signed) J. H. SHERMAN.

Sworn to and subscribed before me, Nov'r 22d, 1871.

(Signed) K. LOEW, *C. S. C.*

ON CLAIM OF WILSON, FAGAN & CO.

W'M FAGAN, being duly sworn, says:

Am member of the firm of Wilson, Fagan & Co., doing business in this city.

The bill annexed to our intervention is correct in dates and amount.

It is for meat furnished to the Lotawanna at the dates therein stated.

211 The amount now due us by the boat $971.79.

The boat was engaged in commerce and navigation at the time this bill was contracted. Furnished at the request of Captain McComas. It was fresh meat furnished to the boat as supplies.

Credit was given to the steamer Lotawanna.

The boat was running between New Orleans and Shreveport and Jefferson, carrying freight and passengers. She could not have got on without the supplies.

Cross-examined:

We did receive a note from Captain McComas for an account he owed for the Julia A. Rudolph.

We received a draft for what was due from Captain McComas. I accepted that draft, and that was in payment of the debt of Captain McComas.

I always supposed McComas to be the owner of the Lotawanna. Don't remember exactly the amount of that draft. It was probably for

212 $600. I don't think it was for the entire amount that was due us.

That draft was paid. There might have been more than one draft—don't recollect. My book-keeper might tell. This draft did not cover any part of the bill. Can't remember the date of the draft. Don't remember the amount of indebtedness at the time the draft was drawn.

(Signed) W'M FAGAN.

Sworn to and subscribed before me, Nov. 22d, 1871.

(Signed) K. LOEW, *U. S. C.*

ROBERT A. WILSON, sworn for opponents, says:

Am the book-keeper of Wilson, Fagan & Co. I know something about their bill in this case. I know it is correct, because I made out the bill from the blotter. I suppose the blotter was correct. Don't know of my own knowledge that these goods were sold, delivereerd, and consumed by the boat.

No part of this meat, to my knowledge, was delivered to Captain McComas' house.

213 Could not from memory tell the date when the draft was drawn by Captain McComas, in Jefferson. There were two drafts for two different amounts. Could not state the respective amounts. I can tell who was her captain; cannot tell who owned her. There was a note given before there was a draft drawn. This note was given on account of the Rudolph. Cannot tell where it was given; I think it was in 1870;

am not positive. It was after the Rudolph burnt. It was in 1871 that the note was given. The note was made payable in 60 days. Could not tell how long after the note was given he gave the draft in Jefferson, Texas. The two drafts amounted to something between three or four hundred dollars. Those two drafts were not drawn on ac' of this bill. The money was collected on these drafts; I credited it to the Rudolph's account. He did not specify on what account he gave the drafts, either by word or writing. He gave me the drafts in person. I don't know what Captain McComas' intentions were in regard to these drafts.
214 Did not tell them to me. He had previously given me a note in payment of the Rudolph's account. I took the note on my own responsibility; the firm refused to take it; they have it still. That note covered the entire indebtedness that was due by the Rudolph. These drafts were drawn by Captain McComas at the time this note was in possession of the firm of Wilson, Fagan & Co.

I never told Captain McComas that the firm would not accept this note he gave me. They still have the note of Captain McComas. They took it and let it go to protest. It was pro'sted on their ac'.

Cross-examined:

I refer to the note given on ac' of the Rudolph bill.

Question. Have you presented the bill filed in this case by Wilson, Fagan & Co., or copies thereof to Captain McComas, of the steamer Lotawanna?

(Objected to by Mr. De Gray, on the ground that Mr. Egan having refused to call the witness, cannot on a cross-examination ask him
215 any question, except what relates to the direct examination, and there is nothing on the direct examination about the presentation of the bills to Captain McComas or anybody else.)

Answer. I have on several occasions. He acknowledged their correctness, and promised to pay them. He never disputed them.

(Signed) R. A. WILSON.

Sworn to and subscribed before me, November 22d, 1871.

(Signed) K. LOEW, *U. S. C.*

Adjourned till Saturday, 25th November, A. D. 1871, at 5½ p. m.

SATURDAY, *Nov. 25th*, 1871, 5½ p. m.

Present, B. Egan, R. De Gray, E. J. Fellowes, Jno. P. Smith, Trist and Olivier, and Semmes and Mott.

JAMES BELL, being first duly sworn for John David, says:

I recognize my signature to due-bill of John David for $52.50. Was clerk of the Lotawanna at the time the bill was given. It was given for wood, and has never been paid that I know.

(Signed) JAMES BELL.

216 On intervention of Wallace & Co., James Bell, sworn, says:

I know a note was given to Wallace and Co. for the amount of their bill, say $316.53.

Wallace & Co. bind themselves to surrender the note on Monday morning, 27th instant.

(Signed) JAMES BELL.

Sworn to and subscribed before me, November 25th, 1871.
(Signed) K. LOEW, *U. S. C.*

ISIDORE LEVY, being first duly sworn, says:

Am employed at Wallace & Co. as salesman. I sold the goods described in bill annexed to intervention, which bill is true and correct in dates and amount. I sold those goods to *to* Captain McComas, of the steamer Lotawanna, personally. Sold them on the credit of the boat, and credited them to said boat.

Cross-examined:

The goods were furnished to the boat for the use of the boat. They were sold in New Orleans. I think the boat was in this port at
217 the time. Captain McComas bought these goods from me in New Orleans, and told me they were for the use of the boat. I don't know of my own knowledge that they were delivered to the boat. The shipping-clerk of Wallace & Co. can tell.
(Signed) ISIDORE LEVY.

Sworn to and subscribed before me, Nov. 25th, 1871.
(Signed) K. LOEW, *U. S. C.*

H. ROCQUET, being first duly sworn, says:

Am the shipping-clerk of Wallace & Co. I know I delivered goods to the steamer Lotawanna on the 24th January, 1871, similar to those described in bill annexed to intervention. I never deliver goods without a receipt, and must have a receipt for the same; some part of the goods went to the boat, and some to some part in town, as far as I can recollect.

Cross-examined:

The largest portion went on board the boat; do not know the
218 value of the goods that did go on the boat. By referring to my receipt-book, I can state what portion of the goods went on the boat, and what portion did not go. The boat was here in the city of New Orleans when the goods were delivered.
(Signed) A. ROCQUET.

Sworn to and subscribed before me, Nov. 25th, 1871.
(Signed) K. LEOW, *U. S. C.*

ISIDORE LEVY, recalled, says:

The smaller portion of the goods, amounting to $88.19 was sent to some part of the city here, I think on White street, to be made up for the boat. The person who bought them gave me the instructions, and told me to charge the goods to the boat.
(Signed) ISIDORE LOEY.

Sworn to and subscribed before me, this 25th day of Nov., 1871.
(Signed) K. LOEW, *U. S. C.*

S. M. PHELAN, being first duly sworn, says:

Am collector at Wallace and Co.; when making my monthly
219 statement, I saw there was a bill against the steamer Lotawanna. Took it to Captain H. G. McComas, who promised to pay it next trip; on the return of the boat he said he was very short, and couldn't pay the same thing for several trips.

The amount of the bill is about $300. McComas always acknowledged the indebtedness, and was always sorry he could not pay it.
(Signed) S. M. PHELAN.

Sworn to and subscribed before me, Nov. 25th, 1871.
(Signed) K. LOEW, *U. S. C.*

ON CLAIM OF GEO. R. MARSH.

JAMES BELL, being sworn, says: I know Mr. Marsh; he was employed on board the steamer Lotawanna as pilot. I was clerk at the time. The boat now owes him for wages $153.40; this includes the wages of Wade, his assistant.

ON CLAIM OF WADE.

Wade was employed on the boat as steersman, as an assistant to Marsh.

ON CLAIM OF EDWARDS, (H.)

220 The boat owes H. Edwards $28 for seven cords of wood taken Time's Landing, and used on the boat.

ON CLAIM OF JAMES BELL, CLERK.

The boat owes me $63.33 for wages as clerk from 1st to 19th May, 1871, inclusive, as per bill now filed and marked "A."
(Signed) JAMES BELL.

Sworn to and subscribed before me, November 25th, 1871.
(Signed) K. LOEW, *U. S. C.*

ON CLAIM OF RUTH AND LARKIN.

JOHN LARKIN, being first duly sworn, says:
The two bills annexed to our intervention are correct. The work was done as therein stated and the prices are reasonable. The work for the bill of $30 was done at the time the boat was laying up, about two days before Captain McComas committed suicide. She was undergoing repairs at the time this was done.

Cross-examined:
221 The boat was in the port of New Orleans undergoing repairs when the work was done. It was not all done at the same time. She was running when I made the first work.
(Signed) JOHN RUTH.

Sworn to and subscribed before me, November 25th, 1871.
(Signed) K. LOEW, *U. S. C.*

JAMES BELL, a witness produced by M. Shelly & Co., E. W. Rodd & Son, and others, mortgage-creditors, being duly sworn, says:
The steamer Lotawanna owes Wilson, Fagan & Co., two hundred and sixty-six $\frac{49}{100}$ dollars. I was the clerk of the boat and kept the accounts. The Lotawanna was in the port of New Orleans on 2d May, 1871.

Was not here on the 8th, 9, or 10th May, 1871. Got back in New Orleans on the 18th.

The first bill of Wilson, Fagan & Co., for $266.49, is correct. The boat was in New Orleans on the 14th April; she might have been
222 here on the 12th; was here on the 12th and 14th; she was here on the 28th April, also, on 31st March, and 1st April; she left New Orleans on the 14th April. I know she was not here on the 16th of April, but am not positive that she was not here on the 15th.

Cross-examined:

I first went on board the Lotawanna on the 15th March, 1871. A bill of $92.52 was contracted by the boat to Wilson, Fagan & Co. previous to my coming on board.

Could not say whether the several bills annexed to libel of Wilson, Fagan & Co. were contracted by the boat or not. I know of the bill of which I have spoken in my examination-in-chief. I don't know anything about the bills to the libel. I don't think the meat charged for on the bills annexed to the libel could have been furnished the boat without my knowing it.

The five bills respectively marked 1, 2, 3, 4, and 5, are those rendered to the boat by Wilson, Fagan & Co. There are two which are
223 missing. I state positively that there are no more than two bills missing. The boat bought seven different trips bills. There are seven different trips bills sued for in the libel of Wilson, Fagan & Co.

There was money paid to them on ac't of meat furnished to the boat. Don't know whether any of that money was applied to any of the bills sued on. I suppose it was applied to some of them. Captain McComas owed Wilson, Fagan & Co., on ac't of steamer Rudolph, for which he gave them a note, which they still hold. She owed them two hundred and odd dollars on the Rudolph's account. The money paid them by the boat was not applied to the extinguishment of the Rudolph's account. The money I refer to was paid by drafts on Jefferson. I now produce one of the drafts. Draft offered, and marked No. 6. That draft does not show that it was applied to the Lotawanna, but the captain told me to charge it up to Wilson, Fagan & Co's. account, on account of the Lotawanna. Cannot say that Wilson, Fagan &
224 Co. knew it; but it is the exact amount of two of their bills rendered to the Lotawanna. I did not take any receipt for it. The dates of the two bills are March 17 and 31st.

One of the missing bills being found is, now produced, filed, and marked No. 7. There was another draft of $240.21 paid them, given for ac't of 25th February, and March, to cover two items of $92.52, I testified from the books. The corresponding item of credit of $240.21 for the boat is in my own handwriting. I had no receipt of Wilson, Fagan & Co. for these amounts, except the draft already filed. I filed no draft for the item of $240.21. I paid the draft myself. Don't know to what account Wilson, Fagan & Co. credited the amount of the draft. Don't know if they knew to what account I credited it. I suppose they knew it because it was the exact amount of their bills rendered. McComas was the owner of the Lotawanna, and had been the owner of the Rudolph. He had dealings with Wilson, Fagan & Co. on both boats.

ON CLAIM OF E. CONERY & SON.

225 (B. Egan, proctor for E. Conery & Son, objects to any rebut-

ting testimony being taken on claim of said Conery & Son, on the ground that no notice has been given that such testimony would be introduced; that Conery is not present, and the testimony would take him by surprise.)

I know the steamer Lotawanna has done business with E. Conery & Son. Was not clerk of the Lotawanna on 13th March, 1871. Account now offered, and marked No. 8, was rendered to the boat by E. Conery and Son. The account is in their handwriting, and I found it on the boat when I went on board. Was clerk of the boat at the time No. 9 was rendered. From the money that was paid E. Conery and Son, there could be no money due them for supplies at the time I left the boat. There might have been something due them on Captain McComas private account. E. Conery & Son received the freight-bills of the boat for collection whenever the boat came into port. The amount
226 of the freight-bills amounted more than the amount of the debt of the boat to E. Conery and Son, at least of the debts I knew of. As clerk of the boat, I knew of the debts of said boat proper. I never knew of a mode of keeping ac't by E. Conery and Son, by which the cash collected from freight-bills was credited to the cash account of Captain McComas until the last account was rendered, and that was on the last trip of the boat, that the ac't was rendered in that way before it was rendered as a general account.

Captain McComas objected to me of this mode of keeping the ac't.

Question. Did Captain McComas object to that mode of making and keeping the account?

Answer. He told me that he objected to their keeping the account in that mode.

(Statement of McComas objected to by Mr. Egan as hearsay.)

I have examined the books and papers the steamer Lotawanna, and have found accounts and bills rendered to the boat by E. Conery & Son.

227 There are 17 bills and accounts which are now produced, filed, and marked " × " for identification.

I also found receipt now produced, and marked No. 10, among the papers of the boat. This is a receipt from E. Conery and Son. Wood was clerk of E. Conery and Son at that time. He was rendering accounts for them, but I don't know whether he was authorized to sign receipts for them. Have not paid them any money, but have settled accounts with them often.

Cross-examined by Mr. Egan.

Was first employed on the Lotawanna on the 15th March, 1871. Did not see account marked No. 8 rendered, but found it on the boat when I went on board. Know nothing of it of my own; I recognize the handwriting as one of the clerk's of Conery.

Question. Did you recognize ac't No. 8, as in the handwriting of any of the clerks of E. Conery & Son & Co.?

228 Answer. I recognize the handwriting as the same of some account rendered the boat by E. Conery & Son & Co. Cannot tell which clerk, but think it's Mr. Wood. I know the handwriting of Mr. Wood.

On cash accounts furnished by E. Conery and Son, and filed July 6th, 1871, I find a credit of $2,500, on 15th May, 1871. I find the same credit on the book of the boat on the same day. I don't know, but I suppose that it is the same credit given in receipt marked No. 10.

Question. Do the books show any credit on the 16th May, 1871, as paid to E. Conery, Son & Co.?

Question objected to by Robt. Mott, on ground that the book is now in court, and that it is the best evidence of its contents. If Conery, Son & Co. desire to prove these contents, they must offer the book in evidence.

Answer. No; they do not. I don't think they show any other credit of $2,500 on any other day. I never saw the books of E. Conery,
229 Son & Co., and therefore do not know how they were in the habit of keeping them.

Question. Do not the 17 accounts and bills referred to in your examination-in-chief, and marked "X," show that E. Conery, Son & Co. were in the habit of keeping their store-account separate from the order and cash accounts?

(Objected to, on the ground that the accounts are in evidence, speak for themselves, and what they contain cannot be proved by parol testimony.)

Answer. They do not, except the last one. Their bills are always rendered for the articles as we get them, except the last a/c.

Question. Can you point out any item in those bills outside of stores furnished for the use of the boat?

(Same objections as to the previous question.)

Answer. Bills marked "A," "B," "C," & "D," were for orders purchased by the boat for parties up the river. They are separate from the store-bills, and show, on their face, that they are order a/c.
230 The 13 remaining ones are store-bills and accounts. I mean by account a general statement rendered to the boat. Document E, of batch marked X, is one of the a/c rendered. Document E is a statement or account. On those bills which purport on their face to be for stores, there is no orders or cash-account. I have no receipt for any of those store-bills. Don't know whether any of them have been paid, but credited them to E. Conery, Son & Co., with the amount of the freight-bills, and charged them with the amount of the freight-bills delivered on the books of the boat. I don't know that E. Conery, Son & Co. knew how I kept the books of the boat; they never saw them. I did not tell them how I was crediting them. Cash received would naturally be credited to Conery, Son & Co., on the boat's books.

Question. Would not cash received be naturally credited to cash advanced?

231 Answer. No. It would naturally be credited to the general a/c. The money received by the boat for orders filled by Conery, Son & Co. would come back in the shape of charges on the freight-bills. Those freight-bills I turned over to E. Conery, Son & Co., for collection. I charged them with the face. Some of them were not collected, handed back, and credited to Conery, Son & Co. I think E. Conery, Son & Co. had a private a/c with Captain McComas. They had cash-transactions together. This I know. Don't know that he had any private with E. Conery, Son & Co. Don't know whether he had any account with them outside of the business of his boat.

Direct resumed:

I do not find, in the books at the date of January 14th, 1871, $6,000 of bills payable, or at any other date, credited to E. Conery, Son & Co., nor do I find that entry in the books at all. The first entry on Conery, Son & Co.'s a/c is January 20th, 1871. The books were

232 opened on *on* the 18th January, 1871. Don't find on the books $4,000 credited Conery, Son & Co. on 25th February, 1871.

(Foregoing testimony objected to by Mr. Egan, on the ground that the books are not in evidence; the witness does not speak of his own knowledge, the books not being in his own handwriting, and he not being then on board the boat, and knowing nothing about it.)

Do not find on said books an entry of $400, bills payable credited to Conery, Son & Co., on March 17th, 1871.

(Same objections as above.)

Do not find $2,600, cash, credited to Conery, Son & Co., on the 18th March, 1871.

(Same objections as above.)

Do not find $2,400 credited to them on 16th May, 1871. On 18th May, 1871, I find $1,500 charged to E. Conery, Son & Co. I do not find an entry on 19th May, of $1,500, credited to them. Among the 17 accounts marked X, there were goods sent to McComas' resi-

233 dence for an amount not exceeding $100.

(Robert Mott offers in evidence the account of E. Conery, Son & Co., on pages 10 and 11 of the ledger which is marked Z for identification.

This is objected to on the ground that the books of a party are not evidence; that E. Conery, Son & Co. had no control over the entries in that book. On its face it commences subsequent to the items on which witness was examined. Most of the entries are not in the witness' handwriting, nor does it appear to have been correctly kept, as the witness had to refer to other books in regard to several of the items about which he was interrogated, and only done this with regard to one or two items.)

The first entry made by me in the ledger was on the 17th March, 1871.

Cross-examined:

Captain McComas acquired the steamer Lotawanna about the

234 middle of January, I think. I don't know how he purchased it. I understood the Lotawanna was bought by Conery at marshal's sale. Don't know that McComas ever owned her, except that his name was in her papers.

Question. Who did the papers show that McComas acquired that boat from?

Answer. I don't know. I never examined the papers. The books of the boat show that McComas purchased the Lotawanna at marshal's sale on the 14th January, 1871.

(Last answer objected to by Mr. Mott, as being an extract from the book, which is not in the handwriting of the witness, and is as to a fact of which the witness has no knowledge He objects to this examination as to the ownership as not being material to the issue involved in this cause, and being a waste of time and money.)

Don't know how the purchase-money was paid. The books of the boat were regularly kept, as long as I was on board. I suppose they were regularly kept previously to my time.

235 If the books were regularly kept, the entries in the journal would be posted in the ledger. On the ledger at date of 20th January, 1871, E. Conery, Son & Co., are charged with $1,094 09. On the 24th of same month, they are credited with $639.65.

Adjourned till Monday, 27th day of November, 1871, at 6 p. m.

MONDAY, *November 27th*, 1871.

It being now 6 p. m., and all parties interested present, the cross-examination of the witness is resumed, and he testifies as follows:

I hold no receipt from E. Conery, Son & Co. for any money that he ever paid to the boat. I never paid him any money. Sometimes I handed them the bills of the boat to collect. I did not give them all the bills that they are charged with on the books of the boat. I did not them all given. I could not identify what portion I did give. The
236 entries I have made in the books of credit were made under instructions of Captain McComas. Don't know what agreement Captain McComas had made with them. Conery, Son & Co. never rendered me any bills personally. They did render the bills of purchases. Bills of purchases and the store-bills were rendered at the same time, but separately. I mean by store-bills the supplies furnished to the boat. The purchase bills was for orders of parties in the country. These were rendered to me on every trip regularly. There may have been more than the 17 bills marked X referred to on my examination-in-chief.

Don't know whether they show on their face that the purchase-bills were kept separate from the store-bills. I have said in my direct examination that I find on 18th May, 1871, $1,500 charged to E. Conery, Son & Co. It was a note for $1,500.

Question. Was it correctly charged on your books, if they were properly kept?

Answer. The note was properly charged, the proceeds of the
237 note would $1,436.50, and that amount is entered in the ledger, under that date. I don't know if it were discounted. I suppose it must have been discounted from the way the captain told me to enter it.

(Mr. Egan for Conery & Son & Co. objects that any statement of the captain to the witness should go down. The captain is dead, and it is an impossibility to contradict any statement made by him to witness.)

When a boat has a bill-book, any bill given to a party ought to be entered in that book. Some persons never have a bill-book, and it is not necessary in keeping books. That note of $1,500 was not one drawn by Captain McComas on me and accepted by me. I accepted a note for $1,400 at Jefferson, Texas. I can't say that that was the same note. It went to protest. I mean the one I accepted. I have no account of
238 that in my books. I don't know that it is not the same note. It was never paid by the boat. I don't know if it was the same than the one charged to Conery, Son & Co. on the books of the boat on the 18th May, 1871.

Question. If your books had been properly kept ought not that note that went to protest after having been charged to E. Conery, Son & Co. be also credited to them?

Answer. If it were the same note it ought to.

Being asked if there were any other note, witness answers:

I know of no other note than the one of the 18th May, 1871. I don't know if that note went to protest. I accepted one for $1,400, which went to protest.

Question. Did you not accept one for $1,500 on the 18th May and let it go to protest?

Answer. Not to my recollection. Have nine on my books of $1,400 on the 18th May. I did not accept one of $1,400 on the 18th May, that do not appear on my books, I did not accept one of the date of

239 18th May, 1871. There was no entry made on the books of the one I accepted. Don't know by whom note of $1,500 was drawn by. I will not swear that the $1,400 note is not the $1,500 note for which Conery, Son & Co. are charged with. I never paid the note that went to protest. If the books had been properly kept, and a note had been given on ac' of the boat, it would appear on the books. I accepted the note at the request of the captain, but don't know what it was for. When I speak of it as a note, I don't mean that it was a promissory note, but a draft. It was never entered on the books of the boat. I never knew what it was for. It had nothing to do with the boat that I know of. If the boat had anything to do with it, I certainly would have entered it. Don't recollect if it was dated May 18th, 1871. I never gave any acceptance of the date of the 18th May, 1871,
240 that I recollect. That draft was presented to me at Jefferson, Texas. I accepted it, and subsequently let it go to protest. I think Captain McComas kept a set of private books, but don't know that he did. I don't know where they are. Never saw them. Have often been in his room on the boat. He had books there. Cannot say when I saw them last. Some time in May. I did not see him make entries in them.

Question. Did he not call on you to show you the entries made in those books?

Answer. No, never. I was clerk on the Rudolph with McComas Conery, Son & Co. rendered their account to the Rudolph, the same manner they rendered them to the Lotawanna. The cash a'c. was not separate from the store a'c. that I recollect. I don't recollect. I would not state that they were not. They were rendered to me on
241 board. McComas had books in his room, on the Rudolph, but I never saw him make any entry in them. McComas always transacted his own business with E. Conery, Son & Co. On all occasions he collected his cash from them. I never paid any bills to E. Conery, Son & Co. on either of the two boats, the Lotawanna and the Rudolph. Captain McComas attended to that business entirely himself. The only knowledge that I have of Conery, Son & Co.'s business with McComas is derived from the latter's statements to me.

(Signed) JAMES BELL.

Sworn to and subscribed before me this 27th November, 1871.

(Signed) K. LOEW, *U. S. C.*

WILLIAM WOOD, being first duly sworn for E. Conery, Son & Co. says:

Am book-keeper of the house of E. Conery, Son & Co., and have
242 been employed by said house since 1869. The bills annexed to intervention of E. Conery, Son & Co. are all correct. The stores mentioned in said bills were furnished to the boat for use and consumption on board of the boat. The amount now due E. Conery, Son & Co. is $2,000.52. Captain McComas has examined the account. I recollect Captain McComas once examining both the account of the Rudolph and that of the Lotawanna. He did not make any objections. He expressed no dis'atisfaction. The exact date I cannot recollect, but I think it was towards the latter part of January, 1871. I don't recollect the date when the Red River Packet Association gave Captain McComas $3,500, but I think that money was given him for the purpose of having him to retire from that trade. I recollect he paid me some money on that occasion. It was on May 15th. No, I don't think he looked over

the a/c that time. Captain McComas looked over the a/c after this
243 time. Can't tell how long after. The boat laid up about that time. I am in the habit of keeping the cash, store, and order account separate on the books—cash and orders together and stores separate. Have kept my books that way ever since I have been a book-keeper. McComas knew this. He had been dealing with us since 1869 with the Rudolph and Lotawanna. I kept his account with both boats, cash and order separate from the store account. Have rendered him memoranda of this account; rendered him memoranda every trip. They were rendered to the captain personally. He never, on any occasion, made any objection to them. Credit of $2,500 on cash a/c has reference to the receipt for like amount filed in this case and marked No. 10. It is stipulated in the receipt that the money was to be placed to the credit of the steamer Lotawanna's cash a/c. McComas, to the best of my knowledge and belief, got that money from the Red River Packet
244 Association. I think that I receipted this money on the 16th May, and that the error was made in the date in the cash-account. I know I did not receive two amounts of $2,500. Captain McComas was aware of the manner in which I kept my books, because when I showed him the account I showed him how I kept them. Documents Nos. 8 and 9 are mere memoranda of the boats' trips going out; that is, there were memoranda of the boats' trips going out, showing the amounts of cash paid, orders rendered, damages, stores, and the amount of freight-bills received for collection, deductions, &c. Among the 17 bills, marked X, referred to in Mr. Bell's testimony, I find a cash-account and order-account—no stores in them dated the 13th May—and at the foot of it I find a memo. in pencil, in my handwriting, showing that there was a store a/c attached to it. I just now found the store-account attached to the store-bill. At that time there were
245 $3,155.10 due E. Conery, Son & Co. for stores on the 13th of May. I was always in the habit of rendering my account in that way; that is, the cash and order account together, and store-account separate. This was not done on every trip of the boat. The memo. I referred to above were invariably rendered on every trip. The 17 bills, marked "X," show that the store-account was kept separate. It was understood with Captain McComas that the cash received from the boat should be applied to the payment of his cash-account. The bills marked "X" indicate what they are for. To the best of my knowledge and belief, the cash a/c filed by Conery, Son & Co. on 5th July, 1871, is correct. McComas got all the orders and cash mentioned in said account. The orders I know from the entries on my books. The cash I am positive I paid it myself. I gave a check for it. McComas has been credited with everything received by Conery & Co., and, since this suit
246 has been commenced, we have received a further sum of $97.82 from freight; these $97.82 ought to be credited by Conery to the store-account. To the best of my knowledge and belief, the $6,000 figuring in the cash-account were given for the purchase of the Lotawanna. I think it was by a note drawn by McComas to his own order, and endorsed by E. Conery & Co., and was then discounted by McComas. On 17th March McComas got Conery & Co. to endorse another note for $4,000, and the $6,000 was taken up by McComas and brought to E. Conery's store. The one of $4,000 was then taken up at maturity, and another of $1,500, dated May the 19th, was given and endorsed by Conery, Son & Co. The $1,500 note was taken up before maturity by Mr. Conery himself at the request of Captain McComas. On the 14th March Captain McComas paid $2,000, and gave the $4,000 note to take

up the $6,000 note. Then, on 18th May, Captain McComas
247 gave us $1,436.50. On the 15th May he gave us $2,500, for which he was credited. The $1,436.50 were given by Captain McComas to renew the $4,000 note in part. All this was a continuation of the original purchase note. The original purchase note was never renewed after the last note of $1,500.

Adjourned till to-morrow 28th instant, at 6 p. m.

TUESDAY, *Nov'r 28th*, 1871

All parties interested appearing and it being 6 p. m, Mr. Rob't Mott for mortgage creditors, proceeds to cross-examine the witnesses, who deposes:

Question. Does the ac. (cash ac.) embrace every transaction of the steamer Lotawanna from and including the 14th January, 1871, to June 9th, 1871, in regard to cash and orders?

Answer. Yes, sir.

Question. If Captain McComas had paid E. Conery, Son & Co. $6,000 on 14th January, 1871, would it have appeared on that account?

Answer. Yes, sir; if he had paid it on ac. of the steamer.

248 Question. Did Captain McComas pay $6,000 on that day for any ac.? Is it likely he should have paid that amount on the day without your knowledge?

Answer. No. By reference to my books I might be able to tell.

Question. What was the nature of the first entry of the debit of the cash account to Captain McComas?

Answer. It was a note.

Question. By whom was it made?

Answer. By Captain McComas, and endorsed by E. Conery, Son & Co.

Question. Was it not discounted?

Answer. It was, sir.

Question. What was done with the proceeds?

Answer. Don't recollect.

Question. Was that note drawn on the 14th January, 1871?

Answer. Yes, sir; I think it was.

Question. When did it mature?

Answer. In sixty days.

Question. Why did you charge Captain McComas of the steamer Lotawanna with that note at the time he made it and Conery, Son & Co. endorsed it?

249 Answer. Because we were the endorsers of it, and became responsible for it.

Question. I ask you on your oath to say whether Conery, Son & Co. did not on that day receive from Captain McComas the sum of $6,000.

Answer. I cannot recollect without referring to my books. I know that he never paid it on account of the Lotawanna, because I would have given him credit for it.

Question. If Captain McComas had given E. Conery, Son & Co. $6,000 on that day, which should have been credited on that ac., how would the balance now stand and in whose favor?

Answer. It would stand in favor of the steamer Lotawanna, for about $4,000.

Question. Did you credit any ac. of Captain McComas on that day with $6,000?

Answer. I don't recollect; I cannot tell without reference to my books.

Redirect:

250 If Captain McComas had given me $6,000 for ac. of the steamer Lotawanna, I would have credited him with the amount. I have no recollection of having received that amount on that day. Cannot tell without refer'ing to my books. Have no recollection of ever receiving $6,000 from Captain McComas.

The cash account filed on 5th July, 1871, is a correct transcript of my books. If the $6,000 were on my books, they should appear on the cash ac.

It is customary with us to charge all endorsements and acceptances on our books.

We took up this $6,000 note, McComas giving us some money for that purpose.

(Signed)

W. WOOD.

Sworn to and subscribed before me, this 28th November, 1871.
(Signed) K. LOEW, *U. S. C.*

Adjourned till to-morrow, the 20th inst., at 1 p, m.

WEDNESDAY, *November 29th*, 1871.

251 Present, Bentinck Egan for libellants and various intervenors, and Trist and Olivier for J. Sharp' McDonald.

THOMAS WOOD, being first duly sworn for J. S. McDonald, intervenor, says:

I reside in Baton Rouge and am in the employ of J. Sharpe McDonald, coal-dealer in Baton Rouge. Bill annexed to intervention of Mr. McDonald is correct in dates and amounts. I know the coal was sold to the steamer Lotawanna at the dates mentioned in said bill and at the prices therein charged. The coal was furnished at Baton Rouge as fuel to the Lotawanna.

I presented the bills for payment to Captain McComas, who acknowledged their correctness, but did not pay them because he was out of funds.

(Signed) THOMAS WOOD.

Sworn to and subscribed before me November 29th, 1871.
(Signed) K. LOEW, *U. S. C.*

252 J. B. LEGGETT, being first duly sworn, says:

Am the agent of J. Sharpe McDonald at Baton Rouge. The steamer Lotawanna was in the habit of coaling at our coal-yard at Baton Rouge at the time she belonged to Captain McComas.

Being shown bill annexed to intervention, says: It is correct; the coal therein mentioned was sold and delivered to the steamer Lotawanna at the dates and for the prices and amount therein set forth. It was sold as fuel for the use of the boat.

Captain McComas has acknowledged the debt, and promised to pay it.

Captain McComas gave me a due-bill for the last item of said bill, being for 615 boxes coal at 60 cents a box, amounting to $369. Due-bill is now offered, and marked No. 21. The signature attached to said

due-bill I know to be the genuine signature of James Bell, the first clerk of the boat.

253 For the other items of *of* said bill two drafts were given by Captain McComas on and accepted by himself. These drafts are now filed and surrendered by the proctors for J. Sharp' McDonald, and marked Nos. 22 and 23, for identification.

I only endorsed these drafts for collection, but they never passed out of my hands except for that purpose. McComas died before their maturity.

The amounts called for by said drafts are due by the Lotawana for coal thus sold to her, with the exception of $473.98, due by McComas as owner of the Rudolph.

We make no claim, however, in this intervention for these $473.98, the same not being due by the Lotawanna.

I received the drafts from McComas; the express understanding between us was that they were not to be understood as a waiver of our lien on the boat, but on the contrary we still retained the same.

254 It was a mere delay given him for the collection of our bill. I never receipted for these drafts, as in payment of our claim against the Lotawanna. Have no recollection of ever having given any receipt for these drafts, and never authorized any one to do it, nor acknowledged in any other manner the payment for the coal thus sold to the Lotawanna. The boat still owes us the amount we sue for.

(Signed) J. B. LEGGETT,

Sworn to and subscribed before me, November 29th, 1871.

(Signed) K. LOEW, *U. S. C.*

Adjourned to 6 p. m., this day.

WEDNESDAY, *Nov. 29th*, 1871.

The parties interested being present and it being 6 p. m., Mr. WILLIAM WOOD was recalled for E. Conery, Son & Co., and deposes as follows:

Since my examination last night I have examined my books. I can now state positively that I never received $6,000 from Captain McComas. I have the $6,000 note that is charged in the cash-account.

255 Captain McComas has received credit for the $6,000 on 28th March, 1871. Note of $6,000 is now offered by Mr. Egan, for E. Conery, Son & Co., and marked No. 24.

The $4,000 note referred to in cash-account is now offered, filed, and marked, No. 25, and the check by which said note was paid is also offered, filed, and marked No. 26.

Cross-examined by Mr. Mott:

E. Conery, Son & Co. received check of Captain McComas for $1,436.50 and collected it, and credited the steamer Lotawanna with it on the cash-account on the 19th May, 1871. Check now offered by Mr. Mott, and marked No. 27.

I never received check of $3,400, now offered and marked No. 28. Know nothing of it; it is not endorsed by E. Conery, Son and Co.

I never saw the check of $6,000, now offered by proctor for mortgage-creditors and marked No. 29.

(Objected to by Mr. Egan, the endorsement of E. Conery, Son & Co. not being proven.)

256 To the best of my knowledge and belief, the endorsement is in the handwriting of E. Conery, Son & Co.

(Objection just made is now withdrawn by Mr. Egan.)

To the best of my knowledge and belief, signature attached to checks marked Nos. 27, 28, and 29 is the genuine signature of Captain McComas.

(Signed) W'M WOOD.

Sworn to and subscribed before me November 29th, 1871.

(Signed) K. LOEW, *U. S. C.*

WILLIAM O. HERN, being first duly sworn for mortgage-creditors, says:

I have seen the 3 checks just offered and signed H. G. McComas, for $1,436.50, $3,400, and $6,000. I found them the second day after the sale of the Lotawanna by the marshal, in the iron safe of the boat, and brought them in the marshal's office.

257 The deputy marshal and myself took them out of the safe, and the deputy marshal brought them up in the marshal's office. He had possession of them. I never had possession of them.

Cross-examined:

I never found the private books of Captain McComas. The only books that I found are now in court. Have never seen Captain McComas' private books.

(Signed) W'M O. HERN.

Sworn to and subscribed before me November 29th, 1871.

(Signed) K. LOEW, *U. S. C.*

E. CONERY, being first duly sworn for E. Conery, Son & Co. says:

The $6,000 note which I have endorsed for Captain McComas was loaned to Captain McComas for the purpose of purchasing the steamer Lotawanna. This note he discounted, if my memory serves me right, in the Louisiana National Bank. The understanding with the president of the bank was that the note was to be discounted in case he purchased the steamer Lotawanna, then for sale by the U. S. marshal.

258 He purchased the boat for $10,500. It was to be paid in cash. I think check marked No. 29, for $6,000, was drawn for a portion of the payment. The marshal, if I remember right, to the check for cash. I endorsed it, because it *because it* was made payable to our order.

In this transaction I only approved as representing McComas, as he thought I could buy the boat cheaper than he could, on account of the great competition going on. He was present with me at the sale. I did the bidding, and the boat was adjudicated to me for his account. It is probable the check was drawn on the bank. Cannot state positively. McComas probably had the check certified at the time the discount was made.

That check had nothing in the world to do with the business of my firm.

259 The note of $4,000, marked No. 25, was made by Captain McComas, and endorsed by E. Conery, Son & Co., to assist him in taking up note of $4,000.

McComas discounted the note, and failed to take the other note up with the proceeds.

I felt somewhat uneasy about it, and went to see Captain McComas. He told me he had used some of the money, and had but $3,400 left. I had to draw a check of $2,600, which I now offer, and is marked No. 30,

to take up the $6,000 note. He took my check of $2,600, and drew his own check for $3,400, and took up the check of $6,000. The check of $3,400 was never in my presence.

The note of $1,500, now offered and marked No. 31, was discounted by Captain McComas in the Louisiana National Bank, and check marked No. 27 is the proceeds of said note. Before its maturity McComas came to me and requested me to take it up, and I took it up and credited him with the interest saved. Check by which it was taken up is now offered, and marked No. 32.

(Signed) E. CONERY.

260 Sworn to and subscribed before me, November 29th, 1871.

(Signed) K. LOEW, *U. S. C.*

The last missing bill of Wilson, Fagan & Co., being found, is now produced, filed, and marked No. 11.

On claim of David Hughes, JAMES BELL, sworn for mortgage-creditors, says:

Eighty-three $\frac{19}{100}$ dollars are due D. Hughes by the steamer Lotawanna. The 7 bills and accounts now filed and marked, Nos. 12, 13, 14, 15, 16, 17, and 18, will show what has been paid to D. Hughes and what is due him.

Cross-examined:

I paid Mr. Hughes myself. I took his receipt for everything that was paid him. I have no other receipts but those just produced. The books of the boat show that I have paid him all his bills except two, amounting together to $83.19. He rendered seven bills in all, of which five have been credited to him. When bills are paid in cash they
261 would not be credited. I did not pay all of the bills. I did not see one of them paid. Some of them were for transactions previous to my going on the boat, and my knowledge is derived from the books of the boat and the receipts. I know nothing, of my own personal knowledge, of Hughes' transactions with the boat prior to my going on board, except what I derived from the books of the boat and his receipts. I only find some bills rendered by him; don't think he ever rendered more. I know nothing of the two bills of $28.80 and $8.20. I was not on the boat when the first one was contracted, and the second one the boat was laying up, and it may not have been rendered. They may both be correct, but I know nothing of them.

Re-direct:

The two checks now produced, and marked respectively Nos. 19 and 20th, I have found among the papers of the boat. They are both endorsed by Mr. Hughes.

(Signed) JAMES BELL.

Sworn to and subscribed before me, November 27th, 1871.

262 (Signed) K. LOEW, *U. S. C.*

Documents referred to and filed with foregoing testimony.

Bill No. 1, filed November 25th, 1871. Bill of Wilson, Fagan & Co. amounts to $124.84. Trip 1.

Bill No. 2, filed November 25th, 1871. Bill of Wilson, Fagan & Co. amounts to $144.13. 4.

Bill No. 3, filed Nov. 25th, 1871. Bill of Wilson, Fagan & Co. amounts to $146.42. 6.

Bill No. 4, filed Nov. 25th, 1871. Bill of Wilson, Fagan & Co. amounts to $120.07. 7.⅌

Bill No. 5, filed Nov. 25th, 1871. Bill of Wilson, Fagan & Co. amounts to $147.69. 3.⅌

Document No. 6, filed Nov. 25th, 1871.

$280.00. NEW ORLEANS, *April 14th*, 1871.

263 Five days after sight pay to the order of Wilson, Fagan & Co. two hundred and eighty dollars, value received, and charge the same to account of yours, respectfully,

H. G. McCOMAS.

To L. L. BLOOMINGDALE, *Jefferson, Texas.*
N., Ap'l 25–'28.

[Internal-revenue certificate, value of 15 cents, affixed and canceled.]

(Written across the face:) Accepted. Pay at the office of James Arbuckle.

(Indors'd:) Pay to the order of Bank of New Orleans.
WILSON, FAGAN & CO.,
P. pro R. A. WILSON.

Pay Messrs. James Arbuckle & Co., or order.
N. AUGUSTIN, *Cashier.*

JAMES ARBUCKLE & CO.,
P'r RAILLY.

Bill No. 7, filed Nov. 25th, 1871. Bill of Wilson, Fagan & Co. amounts to $135.87. $5.

Document No. 8, filed Nov. 25th, 1871.

ST'R LOTAWANNA, *March 13th*, 1871.

1871.			
Feb'y 27,	To m'd'se orders	416	45
" " " "	stores	462	53
" 28,	" cash W. Doughty	150	00
March 1,	" idem for Groham's	400	00
	" error Speake & B.	7	50
	" Perkins, S.		50
2,	" J. Celos, dist. cl'k	30	00
264 M'ch 13,	To bill of M. W. Smith	5	15
" " " "	R. Murrell	12	90
" " " "	Clapp Bros. & Co	19	70
" " " "	commissioner	20	00
		1,524	98
" "	J. G. Brown, 1 b|c	75	00
		$1,599	98
Ins. ½ fr't list		34	87
		1,634	85

Balance last trip	518 48	
Bills this trip	2,444 51	
	2,962 99	
Due E. C. S. & Co	1,634 85	
	$1,328 14	
March 13, check for		$1,328 14

NEW ORLEANS, *March 13th*, 1871.

Document No. 9, filed Nov. 25th, 1871.

ST'R LOTAWANNA.

M'ch 15th,	To J. B. Wolffee, error		$126
"	" J. P. Smith, "		125
17	" m'd'se stores		538 24
"	" " "		23 73
"	" orders		203 03
	" bills payable		4,000 00
18	" cash		2,600 00
22	" Payne D. Dyes		5 67
28	" commission ⅔		20 00
	" ins. ½ fr't list		23 66
	" cash		900 00
	" J. Cellos, dist. cl'k		30 00
	" m'd'se orders		45 95
265	M'ch 22, to stores		351 26
	" " I. T. Hardie, dyes		10 76
	" " commission		20 00
			8,807 31
M'ch 15, bills	1,700 74		
Speake & B. "	4 70		
Dr'ft on Shupt, nett	995 00		
M'd'se ret	7 00		
		2,707 44	
		1,099 87	
Bills uncollected to ret		408 66	
		6,508 53	
Ins. on ½ fr't-list		30 73	
Cash		1,000 00	
E. E.			$7,539 26

NEW ORLEANS, *April 12th*, 1871.

Bills	$1,846 32	
Uncollect'	408 66	
	2,254 98	
I. Phelps	20 24	
	2,275 22	

Slip attached to above bill as follows, (in pencil:)
St'r Lotawanna.

Campbell, Strong	67 05
John Phelps & Co	113 75
Perkins S. & Co	73 50
Scott Bro's & Co	61 35
Jno. Chaffe & Bro	29 75
Britton & Moore	8 00
Jno. Barr	5 50
	495 35
266 Now uncollected	$408 66

Document No. 10, filed Nov. 25, 1871.

NEW ORLEANS, *May 16th*, 1871.

Received of H. G. McComas, twenty-five hundred dollars, to be placed to the steamer Lotawanna's cash-ac.

E. CONERY, SON & CO.
WOOD.

Bill No. 11, filed Nov. 27th, 1871.
Bill of Wilson Fagan & Co., amounts to $92.52. Trip 2⅌.
Bill No. 12, filed Nov. 27th, 1871. Bill of D. Hughes, amounts to $58.94. ⅌1.
Bill No. 13, filed Nov. 27th, 1871. Bill of D. Hughes, amounts to $51.90. Trip 3⅌
Bill No. 14, filed Nov. 27th, 1871. Bill of D. Hughes, amounts to $52.76. Trip 2⅌
Bill No. 15, filed No . 27th, 1871. Bill of D. Hughes, amounts to $59.62.
267 Bill No 16, filed Nov. 27th, 1871. Bill of D. Hughes, amounts to $49.47. ⅌5.
Bill No. 17, filed Nov. 27, 1871. Bill of D. Hughes, amounts to $40.35. ⅌6.
(*On*dorsed on reverse of above bill in pencil:) Ice-bill was not rendered; it is the same as last trip—$40.
Bill No. 18, filed Nov. 27, 1871. Bill of D. Hughes, amounts to $42.84. ⅌7.

Document No. 19, filed Nov. 27, 1871.

No. 214.] NEW ORLEANS, *January* 24, 1871.

Louisiana National Bank of New Orleans, pay to the order of D. Hughes fifty-eight $\frac{94}{100}$ dollars.

H. G. McCOMAS.

[A United States internal-revenue stamp, value of two cents, affixed and cancelled.]

(Indorsed:) D. HUGHES.

Document No. 20, filed Nov., 27, 1871.

No. 267.] NEW ORLEANS, *M'ch 31st*, 1871.

Louisiana National Bank of New Orleans, pay to the order of
268 D. Hughes one hundred and eleven $\frac{52}{100}$ dollars.

$111.52.] (Signed) H. G. McCOMAS.

(Indorsed:) D. HUGHES.

For deposit: MORGAN & HUGHES.

HISRUMY.

[A United S. internal-revenue stamp of two cents affixed and cancelled.]

Document No. 21, filed No . 29th, 1871.

BATON ROUGE, LA., *May 4th*, 1871.

Due J. B. Leggett, agent or order, on demand, three hundred and sixty-nine dollars for 615 boxes coal, at 60 cents per box.

Steamboat Lotawanna and owners.

JAMES BELL, *Clerk.*

(Indorsed:) J. B. LEGGETT, *Ag't.*

[A United States int.-revenue stamp affixed and cancelled.]

Document No. 22, filed and surrendered November 29th, 1871.

$1,195.90.] BATON ROUGE, LA., *May* 24, '71.

Ninety days after date pay to the order of J. B. Leggett, ag'ts, eleven hundred and ninety-five $\frac{90}{100}$ dollars for coal furnished steamer Lotawanna, used for fuel.

269 H. G. McCOMAS,
Master.

To H. G. McCOMAS, *New Orleans, La.*

(Written across the face:) Accepted 37,314. Payable at the Bank of America.

H. G. McCOMAS.

(Indorsed:) J. B. LEGGETT,
Agent.

Pay to the order of Pike Brother & Co.

HART AND HEBERT.

[United States internal-revenue stamps, value of sixty cents, affixed and cancelled.]

Document No. 23, filed and surrendered Nov. 29th, 1871.

$1,182.59.]

BATON ROUGE, LA., *May 24th*, 1871.

Seventy days after date pay to the order of J. B. Leggett, ag't, eleven hundred and eighty-two $\frac{59}{100}$ dollars for coal furnished steamer Lotawanna, used for fuel.

H. G. McCOMAS, *Master.*

To H. G. McCOMAS, *New Orleans, La.*

(Written across the face:) Accepted. Payable at the Bank of America.

H. G. McCOMAS.

(Indorsed:) J. B. LEGGETT, *Ag'ts.*

Pay to the order of Pike Brother & Co.

HART & HEBERT.

[A United States internal-revenue stamp, value of 60 cents, affixed and cancelled.]

Document No. 24, filed and offered by Conery, Son & Co., November 29th, 1871.

$6,000.00.] NEW ORLEANS, *January* 14*th*, 1871.

270 Sixty days after date I promise to pay to the order of E. Conery, Son & Co. six thousand $\frac{00}{100}$ dollars, at Louisianna National Bank of New Orleans. Value received.

H. G. McCOMAS.

No. $644. 128.
(Indorsed:) H. G. McCOMAS.

[United States internal-revenue stamps, value of $3, affixed and cancelled.]

Document No. 25, filed Nov. 29th, 1871.

$4,000.00.] NEW ORLEANS, *March* 17*th*, 1871.

Sixty days after date I promise to pay to the order of Messrs. E. Conery, Son & Co., four thousand dollars at Louisiana National Bank. Value received. STEAMER LOTAWANNA.

H. G. McCOMAS, *Owner*.

Due May 19th, 1871.
(Indorsed:) H. G. McCOMAS.

[United States internal-revenue stamps, value of $2.00, affixed and cancelled.]

Document No. 26th, filed November 29th, 1871.

No. 809.] NEW ORLEANS, *May* 19*th*, 1871.

271 Hibernia Bank, pay to the order of bills payable four thousand $\frac{00}{100}$ dollars, $4,000.00 dollars.

E. CONERY, SON & CO.

Document No. 27, filed Nov. 29th, 1871.

No. .] NEW ORLEANS, *May* 19*th*, 1871.

The Louisiana National Bank of New Orleans, 122 Common st., pay to the order of Messrs. E. Conery, Son & Co., fourteen hundred and thirty-six $\frac{50}{100}$ dollars, ($1,436.50.)
(Signed) H. G. McCOMAS.

[A U. S. int.-rev. stamp, value 2 cents, affixed and canceled.]

Document No. 28, filed Nov. 29.

NEW ORLEANS, *March* 19*th*, 1871.

The Louisiana National Bank of New Orleans, 122 Common street, pay to the order of Messrs. E. Conery, Son & Co., thirty-four hundred dollars, ($3,400.00.)

H. G. McCOMAS.

[A United States internal-revenue stamp, value 2 cents, affixed and cancelled.]

Document No. 29, filed Nov. 29, 1871.

No. 200.] NEW ORLEANS, *January* 14*th*, 1871.

The Louisiana National Bank of New Orleans, 122 Common
272 st., pay to the order of E. Conery, Son & Co., six thousand dollars, ($6,000.)

H. G. McCOMAS.

(Indorsed:)

E. CONERY, SON & CO.
F. A. WOOLFLEY,
D'y U. S. Marshal.

[A United States internal-revenue stamp, value 2 cents, affixed and cancelled.]

Document No. 30, filed Nov. 29, 1871.

No. 622.] NEW ORLEANS, *M'ch* 18*th*, 1871.

Hibernia Bank, pay to the order of Louisiana National Bank twenty six hundred $\frac{00}{100}$ dollars, ($2,600.00) *dollars.*

E. CONERY, SON & CO.

Document No. 31, filed Nov. 29th, 1871.

$1,500.00.] NEW ORLEANS, *May* 19*th*, 1871.

Four months after date, I promise to pay to the order of myself fifteen hundred dollars, value received, favor of steamer Lotawanna and owners.

No. . Due Sept'r 19, '22.

H. G. McCOMAS.

(Indorsed:)

H. G. McCOMAS

Pay the Louisiana National Bank or order.

273 [United States internal-revenue stamps, value of $1.50, affixed and cancelled.]

Document No. 32, filed Nov. 29th, 1871.

No. 186.] NEW ORLEANS, *June* 9*th*, 1871.

Hibernia Bank of New Orleans, pay to the order of A. Luria, cashier L'a Nat. Bank, fourteen hundred and seventy-three $\frac{75}{100}$ dollars, ($1,473.75.)

E. CONERY, SON & CO.

[A United States int.-revenue stamp, value of 2 cents, affixed and cancelled.]

Order.—Cause fixed for trial.—Minutes of Friday, Dec'r 1*st*, 1871.

W'M DOYLE & AL. } No. 9732.
vs.
ST'R LOTAWANNA. }

On motion of B. Egan, proctor for libellants, it is ordered that the cause be set for trial on 7th instant, at 11 a. m., and that the parties interested be notified thereof.

Intervention of Patterson & Dodez.—Filed Dec'r 4th, 1871.

WM DOYLE & AL.
vs.
ST'R LOTAWANNA. } No. 9732.

274 In the United States district court for the district of Louisiana.

Patterson and Dodez, a commercial firm domiciled in Shreveport, in the State of Louisiana, composed of Robert B. Patterson and Daniel I. Dodez, residents of Shreveport, exhibit this their libel against the steamboat Lotawanna, now lying at the port of New Orleans, in district aforesaid and within the admiralty and maritime jurisdiction of the court, her boats, tackle, apparel, and furniture, or the proceeds of said steamer now held in the registry of the court to abide the admiralty proceedings herein, in a cause of admiralty, civil and maritime, and for supplies obtained by the master in a foreign port.

First. That at the dates mentioned, and at various times in the year 1871, the said steamboat Lotawanna, whereof H. G. McComas was master, was lying at the port of Shreveport, Louisiana, within the
275 admiralty and maritime jurisdiction of this court, and that said steamboat being then engaged in voyages between New Orleans, her home port, and *other* points on Red River, in the States of Louisiana and Texas, and standing in need of supplies and provisions or necessary stores to enable her to perform her intended voyages, that libellants, at the request of said master, did furnish for the use of said boat, provisions to enable said boat to perform her said voyages to the amount of two hundred and eighteen and $\frac{30}{100}$ dollars, and that the bill of said supplies, detailed on schedule marked "A," made part hereof, were furnished on the credit of said boat as well as the master and owners.

Second. That said supplies were furnished by libellants when said Lotawanna was lying at Shreveport, a port other than the home port, and that libellants are entitled to an admiralty lien on the proceeds of said boat, in the registry of the court.

276 Third. That libellants have often requested the master and owners of said boat to pay said sum of two hundred and eighteen and $\frac{30}{100}$ dollars, which they have neglected and still refuse to pay, and that said sum is yet due to libellants over and above all payments, deductions.

Fourth. That said steamboat Lotawanna has been sold and her proceeds brought into the registry of the court.

Fifth. That all and singular the premises are true and within the admiralty and maritime jurisdiction of the court.

Wherefore, libellants, pray that this honorable court will pronounce for their demand, and, after due process, direct the same to be paid out of the said boat with costs, and for such other and further relief as to justice and right may appertain and as the court is competent to give in the premises, and that due process may issue to the marshal commanding him to cite the proper parties in interest to show cause
277 why libellant's claim should not be paid out of said boat or her proceeds in the registry, and that this court will pronounce for libellant's demand, and direct said sum to be paid with costs and for all further relief.

(Signed) COTTON & LEVY,
For Libellants.

L. L. LEVY being sworn, of firm of Cotton & Levy, deposes that each member of the firm of Patterson and Dodez is absent from the parish of Orleans, and that amount claimed on libel aforesaid is true to the best of his belief, as well as all the allegations therein made.

(Signed) L. L. LEVY.

Sworn to and subscribed before me this 4th December, 1871.

(Signed) K. LOEW, *U. S. C.*

Bill of Patterson and Dodez annexed to petition.

SHREVEPORT, LA., 20*th July*, 1871.

St'r Lotawanna bought of Patterson and Dodez, butchers, 1st &
278 2d stalls left-hand side of the market, Shreveport, La.:

[A good supply always on hand, which is sold at the lowest prices. Terms cash.].

M'ch	14,	325 lb.	fresh	meat,	@	10c	$32 50
"	9,	541 "	"	"	"	"	54 10
"	20,	50 "	cor'd	beef	"	"	5 10
"	25,	465 "	fresh	meat,	"	"	46 50
Ap'l	8,	418 "	"	"	"	"	41 80
"	24,	384 "	"	"	"	"	38 40
							218 30

(Duplicate.)

Motion of Bostick & Seymour and E. W. Wilson to discontinue their interventions.—Filed Dec. 5th, 1871.

W'M DOYLE & AL. *vs.* ST'R LOTAWANNA. } No. 9732.

U. S. district court for district of Louisiana. December 5th, 1871.

On motion of M. M. Cohen, proctor for Bostick & Seymour and E. W. Wilson, intervening libellants in this cause, it is ordered that the above-named intervening libellants have leave to discon-
279 tinue their interventions, and that the same are hereby discontinued.

Discontinuance of intervention of Bostick and Seymour and E. W. Wilson. From minutes of Tuesday, December 5th, 1871.

W'M DOYLE & AL. *vs.* ST'R LOTAWANNA. } No. 9732.

On motion of M. M. Cohen, proctor for Bostick and Seymour and E. W. Wilson, intervening libellants in this case, it is ordered that the above-named intervening libellants have leave to discontinue their interventions, and that the same are hereby discontinued.

Testimony for Patterson & al.—Draft and protest filed December 5th 1871.

W'M DOYLE & AL. vs. ST'R LOTAWANNA. } No. 9732.

Testimony in behalf of Patterson and Dodez, intervenors, taken before K. Loew, U. S. com'r, Dec'r 5th, 1871.

280 B. Egan, Cotton & Levi, M. A. Foute.

JAMES BELL, being duly sworn, says:

Was first clerk on the steamer Lotawanna in March and April last. The bill of Patterson and Dodez for meat furnished to the steamer Lotawanna is correct in dates and amount, but I think a note or draft was given to them for the amount now claimed by them.

The draft was drawn by Captain McComas.

(Signed) JAMES BELL.

(Patterson and Dodez now produce the draft marked C.)

J. J. LEVY, esq'r, sworn, says:

Mr. Surls, on whom the draft was drawn, stated to me on presentation of the draft that the party drawing the same had no right to do so, and that he would not pay it.

It was then protested.

Draft marked O.—Annexed and filed December 5th, 1871.

$220.96.] SHREVEPORT, *April 24th*, 1871.

281 At sight pay to the order of Patterson and Dodez two hundred and twenty $\frac{96}{100}$ dollars, value received, and charge the same to account of steamer Lotawanna and owners.

H. G. MCCOMAS, *Master.*

To W'M M. SURLS, Esq.,
New Orleans.

[Two-cents U. S. int. revenue stamp, affixed and canceled.]

(Indorsed:) Pay to the order of B. M. Johnson.
PATTERSON AND DODEZ.

Pay to order.
JAMES J. TARLETON, *Cashier.*

For collection.
O. 9732.
B. M. JOHNSON.

Note of evidence.—Filed Dec'r 7th, 1871.

DOYLE & AL. vs. LOTAWANNA. } No. 9732.

The mortgage creditors offered in evidence the act of mortgage and

14 mortgage-notes marked 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64.

Hearing and order of reference from minutes of Thursday, Dec. 7, 1871.

W'M DOYLE & AL.
vs.
ST'R LOTAWANNA. } No. 9732.

282 This cause came up for trial—present, B. Egan, Semmes & Mott, R. De Gray, Trist, and Olivier P. Roberts; when, after hearing the evidence and counsel, it is ordered that the cause be referred to J. B. Weller, U. S. commissioner, to examine and report upon a tabl'au of distribution according to law.

Order to take testimony before commissioner—From minutes of Thursday, December 14th, 1871.

W'M DOYLE & AL.
vs.
ST'R LOTAWANNA. } No. 9732.

On motion of R. De Gray, proctor for Thomas Sewell and other intervenors in the above suit, it is ordered by the court that intervenors be permitted to take additional evidence before the commissioner to whom said cause is referred for report.

Order to file detailed bill costs.—From minutes of Tuesday, December 19th, 1871.

283 W'M DOYLE & AL.
vs.
ST'R LOTAWANNA. } No. 9732.

On motion of B. Egan, att'y for libellants, and various intervenors in the above cause, and on suggesting to the court that said cause has been referred to J. B. Weller, esq., U. S. commissioner, to report and classify the claims filed in the above cause, and that the clerk and marshal have not yet filed detail bills of their costs.

Therefore it is ordered by the court that the clerk and United States marshal do immediately furnish and file with said commissioner detail bills of their costs and charges.

Report of Commissioner J. B. Weller.—Filed January 23d, 1872.

UNITED STATES OF AMERICA,
District of Louisiana:

WILLIAM DOYLE & AL.
vs.
THE ST'R LOTAWANNA, HER TACKLE, &C. } No. 9732.

United States district court.

284 The undersigned commissioner, to whom this case was referred on the 7th of December, 1871, by an order of this honorable

court, begs leave to report that he has examined the voluminous papers on file, and finds that the only maritime liens against said steamer are embraced in the following tabl'aux, to wit:

Names.	Occupation.	Amount.
Jno. G. Parker	Steward	55 55
Russell Isham	Mate	278 28
S. B. Henderson	Porter	42 00
Henry Meyer	Sailor	26 00
Ben. Williams	Mariner	30 00
Geo. B. Marsh	Pilot	153 40
Rob't Ritchie	Sailor	5 85
William Wade	Steersman	57 50
W. H. Gribble	2d clerk	63 33
W'm Doyle	Engineer	274 00
W'm Dixon	Carpenter	62 32

The costs of the U. S. marshal, as represented to me, are	$572 45
Costs of the clerk	420 90
Registrar, 1 % on $7,500	75 00
Prospective costs of clerk & marshal	50 00
Proctor's fees	120 00
Fees of commissioner for making report	125 00
Making a total of	$2,411 58

285	Proceeds of sale of steamer	$7,500
	Privileged claims as above	2,411 58
Leaving a balance, for distribution amongst creditors, of		$5,088 42

What disposition shall be made of this surplus?

Interventions have been filed for distributive shares of this surplus, but under the decision of the Supreme Court in several cases, and by the 12th rule in admiralty, are not liens upon the boat.

I think, however, that it is well settled that a contract for supplies or repairs with a domestic-material man is a maritime contract, and hence within admiralty jurisdiction.

If they cannot be collected by a proceeding in rem, then they are no liens whatever, and the 12th rule in admiralty simply authorizes an action in the admiralty which the party already had at common law.

In this view of the case, I do not see the advantage which the creditor derives from this rule.

286 His claim may as well be heard upon the common law as upon the admiralty side of the court.

In this case the boat, which it is understood was the only property of McComas, has been sold, and, as is already shown, there is a surplus in the registry, and I can see no objection to regarding these interventions as mere petitions for distributive shares of the remnant.

It is true that it was decided by Judge Peters, in one of the first cases before the U. S. court, that no one could go for the surplus unless he could have sued originally. But I think that in Great Britain during the present reign, as well as in this country, the doctrine has since been settled otherwise.

The Supreme Court of the U. S. *States*, in the case of Schubardt & als., for the proceeds of the ship Angelique, say:

"As the fund is in custody of the admiralty, the application must necessarily be made to that court by any person setting up an interest in it.

287 This application, by petition, is frequently entertained for proceeds in the registry, in cases where a suit in the admiralty would be wholly inadmissable. (19 Howard, S. C. Rep., p. 241.)

The attention of your honor is directed to the largest claim, which is represented by Messrs. Semmes and Mott.

It seems that on the 20th of May, 1871, McComas, the owner of the said steamboat, executed a mortgage to the claimants thereon, to secure the payment of certain note', which amount in the aggregate to the sum of ($14,913,) fourteen thousand nine hundred and thirteen dollars. The mortgage, it appears, was duly recorded under the act of Congress passed July 29th, 1850.

It is also recorded under the laws of the State of Louisiana.

The act of Congress does not make this record a lien upon the boat. It only intended to give recorded bills of sale or mortgages of vessels priority over any subsequent conveyance of them, made by those

288 in possession of them, and over any rights acquired on them by general creditors, by judgments, and by execution; and that it was not intended to interfere with these liens in favor of material-men, given by the general maritime law. (Am. Law Reg., vol. 3, p. 236.)

The statute of Louisiana, under which a priority is claimed for this mortgage, is in these words:

"In addition to the conveyances and securities now allowed by the laws of the State, all bills of sale, mortgages, hypothecations, and conveyances of ships, steamboats, and other vessels, or parts thereof, made in good faith, *are* for a valuable consideration, shall be valid, and the record thereof, if of a foreign State, according to the laws of such State, shall be notice to all persons."

Revised statutes of 1869, p. 712.

The party relying upon liens created by the statutes of the State, cannot resort to the admiralty courts to enforce them.

289 His remedy is in the State courts. (1 Black, 531.)

Under an order of court, depositions were taken, to show the consideration passing from the mortgagee to the mortgagor.

From these it appears that the merchandise obtained was for speculative purposes. In other words, to freight his vessel, from the sale of which he expected to derive great profit.

The other claims are for supplies furnished, and repairs made on the boat.

As has already been said, these are not liens, which can be enforced in rem, in admiralty, but are nevertheless valid claims against the owner and his property. These supplies were furnished (nearly all) before the exection of the mortgage, and I regard them as the most mer'torious, and entitled to the remnant, after discharging the liens, which I have represented in the tabl'aux, These supplies and repairs

290 were indispensible to the navigation of the boat. Without them it could not leave port or maintain a position in the commerce of the country.

The following tabl'au is submitted, showing the amount of these claims:

Names.	Occupation.	Am'ts.
A. P. Finlay & Co	Milk	$22 50
D. C. McCan & Co	Brass-founders	473 05
W. H. Morgan	Oysters	38 00
Cap. & crew Frolic	Salvage	400 00
F. W. Rush	Boarding crew	42 00
Wallace & Co	Dry-goods	316 53
Sherman & Sewell	Work & labor	152 35
E. Conery & Co	Supplies—groceries	2,000 52
John H. Hennessy	Founder	409 26
J. S. McDonald	Coal	2,162 70
Jos. A. Brown	Lumber	314 15
Ruth & Larkin	Boiler-maker	105 00
Southern Dry-Dock Co	Repairs	302 00
M. J. Taylor	"	65 85
Fanny Stroop	Vegetables	94 00
John David	Wood	52 50
M. Shelly & Co	Groceries	156 76
McCloskey, Bigley & Co	Coal	335 00
Miller & Wood	"	340 00
Wilson, Fagan & Co	Butchers	971 79
George Ellis	Stationary	151 00
England, Tallon & Co	Fish	185 00
W'm M. Surls	Agency	80 60
H. J. Barr	"	100 00
291 Cha's McCormack	Materials	60 00
E. Edwards	Wood	28 00
G. G. Poinet	Bar acc't	68 00
W. B. Russ	Agency	35 00
Patterson & Dodez	Supplies	218 30
Doughty & McHaffie	Repairs	145 25
Thomas R. Brady	Lumber	96 66
Tho's Forrester	Materials	172 75
David Hughes	Bread, &c.	393 98
S. B. Henderson	Money adv'd	63 48
		$1,193 42
Total amount due claimants		$10,551 98

Amount to be distributed, $5,088.42, giving to each as follows, at the rate of 48 1/5 %on the am't of each claim:

Names.	Am't claimed.	Am't allowed.
A. P. Finlay & Co	22 50	10 90
D. C. McCan & Co	473 05	228 25
W'm Morgan	38 00	18 35
Capt. & crew st'r Frolic	400 00	192 90
M. F. Rust	42 00	20 30
Wallace & Co	316 53	152 60
Sherman & Sewell	152 35	73 30
E. Conery & Co	2,000 52	965 25
John Hennessey	409 25	197 47
J. S. McDonald	2,162 70	1,043 45
Jos. A. Brown	314 15	151 65
Ruth & Larkin	105 00	50 65
Southern Dry-Dock Co	302 00	145 60
M. J. Taylor	65 85	31 75
292 Fanny Stroop	94 00	45 35
John David	52 50	25 30
M. Shelly & Co	156 76	75 30
McCloskey, Bigley & Co	335 00	161 45
Miller & Wood	340 00	164 10
Wilson, Fagan & Co	971 79	468 40
George Ellis	151 00	72 80
England, Tallon & Co	185 00	89 20
W'm M. Surls	80 60	38 25
H. J. Barr	100 00	48 20
Cha's McCormack	60 00	29 05
H. Edwards	28 00	13 50
G. G. Poinet	68 00	32 89
W. B. Ross	35 00	16 90
Patterson & Dodez	218 30	105 25
Doughty & McHaffe	145 25	70 00
Tho's R. Brady	96 66	46 60
Tho's Forrester	172 75	82 30
David Hughes	393 98	192 00
S. B. Henderson	63 48	30 65
	$10,551 97	$5,088 42

The depositions of six witnesses, taken by me, under the order of the court, are herewith transmitted; also a detailed statement of the fees of the clerk and marshal. These papers are marked A, B, C, & D.

All of which is respectfully submitted to the honorable court.

(Signed) J. B. WELLER, *U. S. Com'r.*

293 *Testimony taken before commissioner.—Filed January 23d, 1872.*

I. D. COX ET ALS. *vs.* ST'R LOTAWANNA. } No.

U. S. District Court, district of Louisiana.

Testimony taken on behalf of intervenors, opposing mortgage claims before F. A. Woolfley, U. S. commissioner, acting for J. B. Weller, U. S. com'r, who is absent on account of illness.

W'M O. HERN, being duly sworn, says, that he is a member of the firm of M. Shelly & Co.

The consideration of the note secured by mortgage, sued on in this case, was for goods sold and delivered to the steamboat Lotawanna, and to Captain McComas, owner thereof.

The goods consisted of provisions, bacon, and so forth.

I did not go on board the boat to ask him what he had done with the goods sold. They were, I think, marked ◇L◇; delivered them to the boat, and dray receipt for the delivery.

294 The goods were put up in packages, such as tierces and casks; were large and small packages. The weight of tierces ranges from three to five hundred pounds gross. That of the casks ranges from eight hundred to one thousand pounds.

I do not know what are called boat stores. I suppose the quantities are smaller than these.

The steamer Lotawanna, Captain McComas, was charged with this goods.

When these goods were sold, I think they were to have been paid for on the next or following trip, and, not being paid for, we took a note, and that not being paid at maturity, other notes were given secured by a mortgage on the boat, and these are the ones sued on.

My house deals in provisions, such as salt pork, bacon, &c., but not in groceries.

(Signed) W'M O. HERN.

Sworn to and subscribed before me, January 3d, 1872.

(Signed) F. A. WOOLFLEY, *U. S. Com'r.*

295 H. T. LAWLER, being duly sworn, says:

That he was a member of the late firm of Lawler and Selby, who have a claim in this case, based on notes secured by a mortgage on the steamboat Lotawanna, amounting upwards of seven hundred dollars.

The consideration of said notes was for corn and potatoes, sold and delivered to the steamboat Lotawanna and owners.

Don't know whether these articles sold were to supply orders. The

amount of potatoes sold was upwards of thirty barrels. Can't tell the amount of corn. Can't tell exactly the amount of corn and potatoes sold without reference to the books. The goods sold were charged to the steamboat Lotawanna and owners. My house is not of the character of such as those of Kennett and Bell, Moran, Noble, and Woods, and E. Conery and Son.

They are grocery-men, wholesale. Captain McComas came to my store, and I sold him the goods, asking him no questions as to
296 what purpose he was going to put them to; simply asked him about the payment.

Question. At the time you sold these goods to Captain McComas, did you have any idea that you were furnishing the steamboat Lotawanna with boat-stores or supplies?

Answer. I had no idea for what purpose he bought the goods, but he bought them in the name of the steamboat Lotawanna and owners. He gave me to understand that he was the owner, and that the boat did not owe five cents. Before he bought the goods he told me the boat was fully insured and out of debt, and was fully able to pay my bills.

Further told me the boat cost ten thousand dollars cash; that the bar was sold for five thousand dollars, and that he had put six thousand dollars' worth of repairs; that she was insured for thirteen thousand dollars, and that insurance-companies do not generally insure for more than two-thirds of the value of the boat.

297 I cannot say whether these goods were sold on 30 days' or 40 days' time. The time was long enough to make two trips, which he requested me to give. The note was given on the day of the shipment of the goods, and was not paid at maturity. No reason was given for the non-payment of the note.

I was requested by a messenger from Captain McComas to go to Mr. Earhart's (notary public) office; went there and found Mr. Prudhomme, Mr. Poincy, the late E. W. Rodd, Mr. O'Hern, George Martin, and the late Capt. McComas at said office.

The act of mortgage was then given and executed by Captain McComas, for my debt and that of the other gentlemen named in said act. I surrendered the note I held and took two others, secured by mortgage, in lieu, and I understood the other gentlemen did the same. Captain McComas told us it was the only way at that time he would be able to pay our notes.

(Signed) H. T. LAWLER.

298 Sworn to and subscribed before me January 3d, 1872.

(Signed) F. A. WOOLFLEY,
U. S. Com'r.

T. PRUDHOMME, being duly sworn, says:

That he is a member of the firm of Prudhomme and Grace.

My claim is for flour, sold and delivered to the steamboat Lotawanna, at different times, in quantities from 50 to 100 barrels. Our house deals in flour and general produce.

We are not merchants of the same kind as Moran and Noble, or E. Conery.

Don't know what the flour was used for. Sold it to the steamboat Lotawanna and owners.

(Signed) T. PRUDHOMME.

Sworn to and subscribed before me, January 3d, 1872.
(Signed) F. A. WOOLFLEY,
U. S. Com'r.

ARTHUR POINCY, being duly sworn, says:

299 That my claim is in the neighborhood of $2,000, for flour sold and delivered to the steamboat Lotawanna and owners, at different times, in lots of from 50 to 100 barrels.

Don't know what use was made of it; never enquired.

I believe I surrendered a note I had, and received in lieu a note secured by mortgage; act of mortgage executed by Earhart, notary public.

(Signed) A. POINCY.

Sworn to and subscribed before me, January 3d, 1872.
(Signed) F. A. WOOLFLEY,
U. S. Com'r.

JOHN E. RODD, being duly sworn, says:

That he is a member of the firm of E. W. Rodd & Sons. Our firm deals in sugar, coffee, and molasses. Our claim is for all three of those articles, sold to the steamboat Lotawanna and owners at different times, as follows, to wit: March 17th, 1871, 104 bags coffee; D'r 31, 1871, 10 hhds. sugar, and 100 kegs of molasses. The
300 amount of those were $4,800 and upwards. He, McComas gave notes for these amounts. Don't know what use was made of these goods and never enquired.

(Signed) JOHN E. RODD.

Sworn to and subscribed before me, January 3d, 1872.
(Signed) F. A. WOOLLEY,
U. S. Com'r.

Testimony of James Bell.—Filed January 23d, 1872.

W'M DOYLE AND AL. *vs.* STEAMBOAT LOTAWANNA. } No. 9732.

U. S. district court, district of Louisiana.

(Semmes and Mott, on behalf of mortgage-creditors, object to any testimony being taken showing the consideration of the mortgage-notes described in the intervening libel of E. W. Rodd et al., filed June 19th, 1871.)

JAMES BELL, being duly sworn, deposes and says:

That he was clerk of the steamboat Lotawanna from March 15th, 1871, until some time in May following—about the 20th of that
301 month—at which time she laid up and never went out afterward until she was sold by the marshal in the above suit.

I do not know what the consideration of the mortgage-note' was. I never knew they had been executed until after the death of the captain.

The boat di d not owe these parties anything to my knowledge.

No supplies for the boat or other things for the use of the boat was

bought from them while I was on her. The books of the boat already on file do not show any transactions of the boat with any of those parties—that is, those claiming to be mortgaged creditors.

These books commence and end with the ownership of the boat by McComas. No bills were ever presented to the office of the boat by any of those parties. The office of the boat is the place where all bills are presented that are contracted for the use of the boat.

302 The books of the boat were regularly kept, and if there had been any goods furnished by these parties to the boat, for the use of the boat, the books would show it. There were a great many goods on the boat consigned to McComas and Bloomingdale.

The freight of these goods were charged to McComas.

He, of course, never paid the boat any freight. These charges were made to keep the account straight.

(Signed) JAMES BELL.

Sworn to and subscribed before me this 23d day of December, 1871.

(Signed) J. B. WELLER, *U. S. C.*

Rule to homologate report of commissioner.—From minutes of Wednesday, January 23d, 1872.

W'M DOYLE & AL. }
vs. } No. 9732.
ST'R LOTAWANNA. }

On motion of R. De Gray, proctor:

303 Ordered that all parties interested in this cause show cause, on the 27th instant, at 11 a. m., why the report that was presented by the commissioner should not be approved, and the fund in court distributed in accordance therewith.

Petition and opposition of P. B. Fouke, administrator succession McComas to report of Commissioner Weller.—Filed January 24th, 1872.

DOYLE & AL. }
vs. } No. 9732. In admiralty.
ST'R LOTAWANNA. }

U. S. district court, district of Louisiana.

To the honorable the judge of said court:

Philip B. Fouke, administrator of the succession of Harry Gourgh McComas, exhibits this his petition, and therein doth allege and propound as follows:

304 1st. That, in the said succession of H. G. McComas, No. 34,670 of the docket of the second district court for the parish of Orleans, the said steamboat Lotawanna is truly inventoried as the property of said succession of which your petitioner is the administrator, and said boat was therein appraised at eight thousand dollars, ($8,000.)

2d. That said boat was sold by a decree of this honorable court, and that the proceeds of the sale thereof are now in the registry thereof.

3rd. That it appears by the report of Commisssoner J. B. Wel-

ler, filed in this court on the 23d January, 1872, that the said proceeds amount to seven thousand five hundred dollars, ($7,500,) and that the privileged and maritime claims, including clerk's and marshal's costs and registrar's per centu', and the commissioner's fee for said report, amount to $2,411.55; leaving for further distribution $5,088.45, (five thousand and eighty-eight $\frac{45}{100}$ dollars.)

4th. That the said balance of $5,088.45 has been reported by said commissioner to be distributed among domestic creditors for supplies and materials to the Lotawanna, which was a domestic vessel, New Orleans being her home port; and that while your petitioner does not oppose so much of said report as is stated on the 3d
305 article of this petition at the sum of $2,411.55, he opposes the distribution reported by said commissioner of the sum of $5,088.45, as herein above set forth in this 4th article of this petition, on the grounds that domestic creditors of a boat in her home port (as is the fact in this case, and which fact appears by said report,) cannot be permitted to intervene in a libel in rem, as they would not be allowed to file an original libel in rem, as was decided by this honorable court at the present term in the case of Cox et al vs. The Lotawanna, this very boat.

5th. That petitioner is entitled to the said sum of $5,088.45 as administrator as aforesaid, and the said domestic creditors must assert their claims on a tabl'aux of distribution to be filed in said second district court for the parish of Orleans, wherein the widow and children of said H. G. McComas may assert their rights to a homestead of one thousand dollars, as allowed by section $1,693, page 333, of the re-
306 vised statutes of Louisiana, to the widow or minor children left in necessitous circumstances in preference to all other debts except the vendor's privilege and expenses incurred in selling the property, and petitioner alleges that it appears by the inventory and appraisement filed in said second district court in said succession, that all the property of said estate, exclusive of said steamboat Lotawanna was estimated at only $405, from which must be deducted the costs of court and expenses of publication and administration, and upon which rests a landlords' privilege for more than $300 for rent due.

Wherefore petitioner prays that this honorable court will reject so much of said report as proposes to distribute to domestic creditors the said sum of $5,088.45, and will pronounce for petitioners' aforesaid demand to be put in possession of said sum of $5,088.45, as administrator as aforesaid, and will direct the aforesaid proceeds so remaining in the registry of the court to be delivered to petitioner with costs;
307 and for such other relief as to right and justice may appertain, and as the court is competent to give in the premises.

(Signed) JAMES R. CURELL,
Proctor for Petitioner.
HAYS AND NEW, *Proctors.*

Sworn to and subscribed before me by said proctor this 24th day of January, 1872.

(Signed) K. LOEW, *U. S. Com'r.*

Petition of mortgage creditors for excess in registry.—Filed January 27th 1872. No. 9732.

To the honorable the district court of the United States for the district of Louisiana:

The petition of Catharine Ann Rodd, administratrix of the succession

of E. W. Rodd, and other intervening libellants, whose names are set forth and described in their intervening libel, filed in this honorable court in the case of W'm Doyle and al. vs. Steamboat Lotawanna, No. 9732, on the docket, with respect represents that the said steam-
308 boat Lotawanna has been sold under a decree of this honorable court, and that the proceeds of the sale are now in the registry of the court; that, after the payment of all the admiralty liens and the costs and charges, there is a balance of the proceeds of the sale amounting to over five thousand and eighty-eight $\frac{42}{100}$ dollars, on which there is no lien or privilege, except that to which petitioners are entitled, in consequence of being the mortgagees of said steamboat, as set forth in said intervening libel.

Wherefore petitioners pray that the said sum of five thousand and eighty-eight $\frac{42}{100}$ dollars and upwards in the registry, the proceeds of the sale of said steamboat Lotawanna, be appropriated and applied to the payment in part of the said mortgage of fourteen thousand nine hundred and thirteen $\frac{53}{100}$ dollars held and owned by petitioners; and for such other and further relief as the nature of the law and equity and good conscience can give.

309 (Signed) SEMMES AND MOTT,
For Petitioners.

Exception to report and prayer to amend. Filed January 29th 1872.

W'M DOYLE AND AL. *vs.* ST'R LOTAWANNA. } No. 9732.

United States district court.

Now comes John Raymond, owner of the steamer Frolic, into court, and excepts to the report herein filed, on the ground that his claim is for salvage; that he has a maritime lien on the steamer Lotawana for the amount of his claim, ($400,) four hundred dollars, and has been erroneously placed on the account herein filed by J. B. Weller, esq'r, U. S. commissioner among the claims allowed out of the proceeds without an admiralty lien.

Wherefore he prays that this exception be maintained, and said report amended by placing his claim for four hundred dollars, as among the first class of creditors on said report; and as thus amended
310 that said report be approved and homologated, and the proceeds of the steamer Lotawanna distributed in accordance therewith.

(Signed) BENTINCK EGAN AND
LE MONNIER, *Proctors.*

Order to pay costs and mariners.—From minutes of Saturday, February 3rd, 1872.

W'M DOYLE & AL. *vs.* ST'R LOTAWANNA. } No. 9732.

On motion of Semmes and Mott and B. Egan, esquires, and on suggesting to the court that there is no opposition to the law charges and the claims of the mariners:

It is ordered by the court that the same be at once paid by the registrar, as per commissioner's report as follows:

Marshal	$572 45
Clerk	420 90
Prospective costs, cl'k & m'sh'l	50 00
Registrar 1 %	75 00
Proctor's fees	120 00
Fees of com'r for report	125 00

MARINERS.

311	John G. Parker, steward	55 55
	Russell Isham, mate	278 28
	S. B. Henderson, porter	42 00
	Henry Meyer, sailor	26 00
	Ben. Williams, mariner	30 00
	Geo. R. Marsh, pilot	153 40
	Rob't Ritchie, sailor	5 85
	W'm Wade, steersman	57 50
	H. W. Gribble, 2d clerk	63 33
	W'm Doyle, engineer	274 00
	W'm Dixon, carpenter	62 32
		$2,411 58

The balance of the proceeds to remain in the registry subject to the further order of the court.

Order: Rule submitted.—From minutes of Wednesday, February 14th, 1872.

W'M DOYLE & AL. *vs.* ST'R LOTAWANNA. } No. 9732.

For reasons orally assigned by the court, it is ordered that the commissioner's report of the 23d January, 1872, be disapproved; and it is now ordered, adjudged, and decreed that, after deducting the
312 mariners' claims and costs heretofore allowed, amounting to $2,411.58, the claim of steamer Frolic for salvage, 400; on the additional costs of marshal, 44.00; the balance of $4,644.42 be applied to the satisfaction of the mortgage claims held by Catherine Ann Rodd, administratrix John E. Rodd, James T. Rodd, Arthur Poincy, Benj. Poincy, Michael Shelly, W'm O. Harn, Theodore Prudhomme, Jno. T. H. Grace, George Martin, W'm Dillon, Henry T. Lawler, and W'm H. Shelby.

Judgment rendered February 26th, 1872.
Judgment signed March 1st, 1872.
(Signed) E. H. DURELL, *Judge.*

Motion and order of appeal.—Filed March 1st 1872.

W'M DOYLE ET AL. *vs.* ST'R LOTAWANNA. } No. 9732.

U. S. district court.

On motion of Bentinck Egan, proctor for E. Conery, Son & Co.,

313 composed of E. Conery, J. H. Mange, and E. Conery, jr.; D. C. McCan; Wilson Fagan & Co., composed of John Wilson, William Fagan, and Benjamin Miller; John Hennessy; Southern Dry-Dock Co., a corporation; Thomas Forrester; Joseph A. Brown; McCloskey, Bigley & Co., composed of P. G. and N. J. Bigley; England, Tellon and Co., composed of Richard England and W'm Fellon, W'm M. Surls, H. J. Barr, Ch's McCormick, G. G. Poinet, B. M. Ross; Miller and Wood, composed of George F. Miller and M. N. Wood; David Hughes; T. R. Brady; Lagan and Mackinson, composed of Mathew D. Lagan and James Mackinson; Doughty and W'm McHaffie, composed of W'm Doughty and Jesse H. McHaffie; F. W. Rust; Trist and Olivier, proctors for J. Sharp McDonald; R. De Gray, proctor for Ruth and Larkin, composed of John Ruth and Frank Larkins; and John M. Sherman, and Thomas Sewell, intervening libellants in the above-entitled cause, and on suggesting to the court that they are informed and believe
314 that there is error to their prejudice in the final judgment rendered by this honorable court in the above cause, on the 26th of February, 1872; that they are aggrieved by said final judgment, and are desirous of taking a suspensive appeal, with supercedeas to the honorable circuit court of the United States for the fifth circuit and district of Louisiana from said final judgment:

Therefore it is ordered by the court that they be allowed a suspensive appeal with supercedeas from the above judgment, returnable in the honorable circuit court of the United States for the fifth circuit and district of Louisiana on giving bond in the sum of .

An appeal to operate as a supercedeas is allowed in this case, as prayed for, returnable at the next term of the circuit court of the United States for the fifth circuit and district of Louisiana, to be holden in the city of New Orleans, on the 4th Monday of April, 1872, the ap-
315 pellants giving bond in the sum of $6,000, with surety, according to law.

March 1st, 1872.

(Signed) E. H. DURELL, *Judge.*

Motion for appeal for Stroop, Taylor and David.—Filed March 2d, 1872.

W'M DOYLE & AL. *vs.* ST'R LOTAWANNA. } No. 9732.

U. S. district court.

On motion of John P. Smith, proctor for Fanny Stroop, M. J. Taylor, and John David, intervening libellants herein, and on suggesting to the court that they are informed and believe that there is error to their prejudice in the final judgment rendered by this honorable court in the above cause, on the 26th February, 1872; that they are aggrieved thereby, and are desirous of taking a suspensive appeal, with supersedeas, to the honorable the circuit court of the United States for the fifth circuit district of Louisiana from the said judgment:

316 It is ordered by the court that the intervenors be allowed to join in the suspensive appeal heretofore granted herein to E. Conery, Son & Co., and others, on the 1st March, 1872.

Let the parties herein named be permitted to join in the appeal taken by Conery, Son & Co. & al. on the 1st instant.

(Signed) E. H. DURELL, *Judge.*

Appeal-bond and testimony of John Henderson, surety.—Filed March 5th, 1872.

United States district court, district of Louisiana.

CLERK'S OFFICE, (Official business,)
New Orleans, March 1st, 1872.

W'M DOYLE & AL. }
vs. } No. 9732.
ST'R LOTOWANNA. }

Messrs. Semmes & Mott, proctors for Catharine A. Rodd, adm'tr'x' and others, mortgage creditors and intervenors:

You are hereby notified that E. Conery, Son & Co., D. C. McCann, and others named in the motion for appeal this day filed, intervening
317 libellants and appellants in above numbered and entitled cause, will produce in the clerk's office of this court, on Tuesday, 5th March, 1872, at 10 o'clock a. m., Mr. John Henderson, liquor dealer and rectifier, doing business at No. 85 Tchoupitoulas st's, and Nos. 72, 74, and 76 Lafayette st., and residing corner of Camp and Sixth st., as security on the appeal-bond to be given by them in above cause.

[SEAL OF COURT.] (Signed) J. A. CHARBONNET, *D'y Cl'k.*

Marshal's return.

Received March 1st, 1872, by the U. S. marshal, and on the 2d day of March, 1872, at 3 o'clock and 15 minutes, served a copy of the within notices on Semmes and Mott by delivering the same to Thomas J. Semmes in person, at his office No. 9 Carondelet st., in this city.

New Orleans, March 2d, 1872.

(Signed) S. W. REED,
Deputy U. S. Marshal.

318 *Appeal bond.*

UNITED STATES OF AMERICA,
District of Louisiana:

District court of the United States.—In admiralty.

W'M DOYLE ET ALS. }
vs. } No. 9732.
ST'R LOTAWANNA. }

Know all men by these presents that we, E. Conery, Son & Co., composed of E. Conery, J. H. Mange, and E. Conery, jr., D. C. McCan, Wilson, Fagan & Co., composed of John Wilson, William Fagan, and Benjamin Miller; John Hennessy, Southern Dry-Dock Co., a corporation, Thomas Forrester, Joseph A. Brown, McClosky, Bigley & Co., composed of P. G. and A. J. Bigley, England, Tallon & Co., composed of Richard England and William Tallon; W'm M. Surls, H. J. Baer, Charles McCormack, G. G. Poinet, B. M. Ross, Miller and Wood, composed of Geo. F. Miller and M. N. Wood, David Hughes, T. R. Brady, Lagan and Mackison, composed of Mathew D. Lagan and James Mackison; Doughty and McHaffie, composed of W'm Doughty and
319 Jessie H. McHaffie, F. W. Rust, Ruth and Larkin, composed of John Ruth and Frank Larkin; J. M. Sherman, Thomas Sewell,

J. Sharp McDonald, Fanny Stroop, M. J. Taylor, and John David, as principals, and John Henderson as surety, are held and firmly bound unto Catherine Ann Rodd, administratrix, John E. Rodd, James T. Rodd, Arthur Poincy, Benj. Poincy, Michael Shelly, W'm O. Harn, Theo. Prudhomme, and Jno. T. H. Grace, George Martin, William Dillon, Henry T. Lawler, and W'm H. Shelly, and John Reynaud, et als., in the sum of six thousand dollars, to be paid to the said Catherine Ann Rodd, adm'tr'x, John E. Rodd, James T. Rodd, Arthur Poincy, Benjamin Poincy, Michael Shelly, W'm O. Harn, Theo. Prudhomme, and John T. Grace, George Martin, William Dillon, Henry F. Lawler, and W'm H. Shelly, and John Reynaud, et als., for the payment of which well and truly to be made, in lawful money of the United States, we bind ourselves and each of us, our and each of our heirs, executors, administrators, jointly and severally firmly by these presents, sealed with
320 our seals and dated at New Orleans this 5th day of March, 1872.

Whereas the above-named E. Conery, Son & Co., D. C. McCann, Wilson, Fagan & Co., John Hennessey, Southern Dry-Dock Co., Thomas Forrester, Joseph A. Brown, McCloskey, Bigley & Co., England, Talland & Co., W'm M. Surls, H. J. Baer, Charles McCormack, G. G. Poinet, D. M. Ross, Miller and Wood, David Hughes, T. R. Brady, Lagan and Mackison, Doughty and McHaffie, F. W. Rust, Ruth and Larkin, J. M. Sherman, Thomas Sewell, J. Sharp McDonald, Fanny Stroop, M. J. Taylor, and John David, have appealed to the next term of the circuit court of the United States for the 5th circuit and district of Louisiana, from a final judgment of the district court of the United States for said district, rendered against them on the 26th day of *of* February, 1872, and signed on the 1st day of March, 1872, in the above-entitled cause.

Now, therefore, the condition of this obligation is such that if
321 the above-named appellants shall prosecute their appeal to effect and answer all damages and costs, and satisfy whatever judgment may be rendered against them if they fail to make their appeal good, then this obligation to be void, and otherwise the same shall be and remain in full force and effect.

(Signed) JOHN P. SMITH,
Proctor for Fanny Stroop, M. J. Taylor, and John J. David.
TRIST AND OLIVIER,
Proctor for J. Sharp McDonald.
R. DE GRAY,
Proctor for Ruth and Larkin, composed of John Ruth and Frank Larkin, proctor for J. M. Sherman, proctor for Thomas Sewell.
BENTINCK EGAN,
Proctor for E. Conery, Son & Co., D. C. McCan, Wilson, Fagan & Co., composed of John Wilson, W'm Fagan, and Benjamin Miller; John Hennessy, Southern Dry-Dock Co., Thomas Forrester, Joseph A. Brown, McClosky, Bigley & Co., England, Tellon & Co., composed of Richard England and W'm Tellon, W'm M. Surls, H. J. Baer, Charles
322 *McCormack, G. G. Poinet, R. M. Ross, Miller and Wood, composed of George F. Miller and M. N. Wood, David Hughes, F. R. Brady, Lagan and Mackison, composed of Mathew D. Lagan and James Mackison, Doughty and McHaffie, composed of W'm Doughty and Jessie H. McHaffie, F. W. Rust.*

(Signed) E. CONERY, SON & CO. [SEAL.]
(Signed) JOHN HENDERSON. [SEAL.]

Signed, sealed, and executed before me this 5th March, 1872.
(Signed) CHARLES CLAIBORNE, *U. S. Com.*

JOHN HENDERSON, being duly sworn, says:

I signed the appeal bond in the case of W'm Doyle and others vs. Steamer Lotawanna, No. 9732, of the docket of the U. S. district court for the district of Louisiana. I reside in the city of New Orleans, and am worth the sum of $6,000, over and above all my just debts and liabilities. I own real estate in this city worth at least $40,000, free
323 of all encumbrances. Am not a tutor to any minor children, not a testamentory executor of any succession, am married, my wife brought no dowry in marriage, nor has she received any money or property since our marriage from inheritance or otherwise.

(Signed) JOHN HENDERSON.

Sworn to and subscribed before me this 5th day of March, A. D. 1872.
(Signed) CHARLES CLAIBORNE,
U. S. Com'r.

Motion of George Ellis, a libellant intervening here, asking to join in the appeal herein, filed March 6th, 1872.

U. S. district court, district of Louisiana.—In admiralty.

W'M DOYLE ET AL. vs. ST'R LOTAWANNA. } No. 9732.

On motion of Percy Robert, of counsel for Geo. Ellis, one of the libellants intervening in this case, and on suggesting to the court that he was absent from the city at the time the appeal was taken from
324 the judgment, the court herein, and on further suggesting to the court that said Ellis, libellant as aforesaid, now desires to join in said appeal as one of the parties appel'ant herein, and on further suggesting to the court that the proper appeal-bond has already been given herein as required by law:

It is therefore ordered, that said Ellis, libellant as aforesaid, be hereby allowed to join in said appeal as one of the parties appellant on the same.

Let the relator be permitted to join in the appeal as prayed for.

March 6th, 1872.

(Signed) E. H. DURELL, *Judge.*

Rule for appraiser's fee.—From minutes of Tuesday, March 12th, 1872.

W'M DOYLE ET AL. vs. ST'R LOTAWANNA. } No. 9732.

On motion of H. G. Heartt:

325 Ordered, that the mortgage creditors and the appellants show cause on the 14th instant, at 11 a. m., why said Heartt should not be paid, out of the fund in court, $156.50 for his services as appraiser in this cause.

Order from minutes of Thursday, March 14th, 1872.

W'M DOYLE & AL.
vs.
ST'R LOTAWANNA. } No. 9732.

The rule for appraiser's fees was called, and, for want of service, continued till the 16th instant, at 11 a. m., with instructions to notify the parties interested herein.

Order to pay Heartt.—From minutes of Saturday, March 16th, 1872.

W'M DOYLE & AL.
vs.
ST'R LOTAWANNA. } No. 9732.

The rule for appraiser's fees was called—H. G. Heartt, relator; Semmes and Mott, R. De Gray, and B. Egan for creditors, and,
326 after hearing the evidence and counsel,
Ordered, that the rule be made absolute, and that said Heartt be paid the sum of $156.50 from the fund in court.

SAME
vs.
SAME.

On motion of R. De Gray, proctor for Thomas Sewell and other intervenors:
It is ordered by the court, that M. Shelly and al. show cause on Monday next, 18th instant, at 11 a. m., why the funds now in the registry should not be transferred forthwith to the circuit court, where the whole case is now pending on appeal.

Petition for an appeal with supersedeas.—Filed March, 16th, 1872.

U. S. district court, district of Louisiana.

DOYLE
vs.
ST'R LOTAWANNA. } No. 9732.

To the honorable the judge of the district court of the United
327 States for the district of Louisiana.

The petition of Thomas Sewell and James Sherman, intervening libellants in the above suit, respectfully represents that they are ag'rieved by the final decision of this honorable court, rendered this 16th day of March, 1872, in favor of H. G. Heartt, for $160, and that there is error in the same to his prejudice.
Wherefore they pray that they be allowed an appeal to the next term of the circuit court of the United States, with a supersedeas, upon giving proper security.
(Signed) RICHARD DE GRAY, *Proctor.*

Order.

Let an appeal with supersedeas be allowed as prayed for returnable to the next term of the circuit court of the United States for this district, the appellant giving bond and security according to law.

March 6th, 1872.

(Signed) E. H. DURELL, *Judge.*

328 *Order rule re-assigned.—From minutes of Monday, March 18th,* 1872.

W'M DOYLE & AL. *vs.* ST'R LOTAWANNA. } No. 9732.

On motion of R. De Gray, esq.,

Ordered, that the rule of the 16th instant be re-assigned for Saturday next, at 11 a. m., and that M. Shelly & Co. be notified thereof.

Appeal bond.

UNITED STATES OF AMERICA,
District of Louisiana:

District court of the United States.—In admiralty.

W'M DOYLE & AL. *vs.* T'R LOTAWANNA. } No. 9732.

Know all men by these presents that we, Thomas Sewell and others, as principals, and William O. Harn as surety, are held and firmly bound unto H. G. Heartt in the sum of two hundred and fifty dollars, to be paid to the said H. G. Heartt, for the payment of which, well and
329 truly to be made, in lawful money of the United States, we bind ourselves, and each of us, our and each of our heirs, executors, administrators, jointly and severally, firmly by these presents, sealed with our seals, and dated at New Orleans the 25th day of March, 1872.

Whereas the above-named Thomas Sewell and others have appealed to the next term of the circuit court of the United States for the 5th circuit and district of Louisiana, from a final judgment of the district court of the United States for said district, rendered aginst them and in favor of H. G. Heartt, on the 16th March, 1872:

Now, therefore, the condition of this obligation is such, that if the above-named appellant shall prosecute his appeal to effect and answer all damages and costs, and satisfy whatever judgment may be rendered against for costs, if he fails to make his appeal good, then this obligation to be void; otherwise the same shall be and remain in full force and virtue.

(Signed) THO'S SEWELL, [L. S.]
330 Per R. DE GRAY, *Proctor.*

Signed, sealed, & delivered in presence of—
(Signed) W'M O. HERN.

Continuance of rule.—From minutes of Saturday, March 23d, 1872.

W'M DOYLE & AL. *vs.* ST'R LOTAWANNA. } No. 9732.

The rule of the 16th instant was called, and neither party appearing, the same was continued indefinitely.

Appeal bond filed March 25th, 1872.

Consent to pay salvage claim.—Filed March 30th, 1872.

U. S. district court.

W'M DOYLE ET AL. *vs.* ST'R LOTAWANNA. } No. 9732.

We, the undersigned interested parties in the above suit, do consent that the claim of Captain Reynaud for salvage services rendered to the steamer Lotawanna, and amounting, as per claim filed herein, to four hundred dollars, ($400,) be paid, notwithstanding the appeal herein taken.

331 (Signed) JOHN P. SMITH,
Proctor for Taylor, Stroop, & David.
(Signed) RICHARD DE GRAY, *Proctor.*
(Signed) M. A. FOUTE,
For Morgan & A. P. Finlay & Co.
(Signed) COTTON & LEVY,
For Intervenor Patterson & Dodez.
(Signed) BENTICK EGAN,
Proctor for various Parties.
(Signed) TRIST & OLIVIER,
For J. Sharp McDonald.
(Signed) E. T. & E. J. FELLOWS,
For N. & Co., for our Clients, and to bind them only we consent.
(Signed) SEMMES AND MOTT.
(Signed) PERCY ROBERTS,
Proctor for Geo. Ellis.

W'M DOYLE ET AL. *vs.* ST'R LOTAWANNA. } No. 9732.

Testimony before K. Loew, U. S. C., July 21st, 1871.

Present, B. Egan, Semmes and Mott, Le Monier, J. P. Smith.

ON CLAIM M. I. TAYLOR.

M. I. TAYLOR sworn for himself says: Bill sued on is correct. Goods furnished for the boat's use at the master's request.

332 $65.85 balance due me.

(Signed) M. I. TAYLOR.

Sworn to and subscribed before me this 21st July, 1871.

(Signed) K. LOEW, *U. S. Com'r.*

CLAIM FANNY STROOP.

Mr. MALTBY, recalled, says the bill of items furnished is correct. It is the items of the bill sued on. It is to my knowledge that these goods were all sold and delivered to the Lotawanna upon the steward's orders.

Cross-examined:

I am all the time at the place of Mrs. Stroop. There were 3 different wagon-loads on the bill. Saw them all delivered. Know that all of those things went on board the Lotawanna. No note was ever given and no cash for the balance due.

Re-examined:

The 3 wagon-loads were for 3 trips of the boat.

(Signed) W. J. MALTBY.

Sworn to and subscribed before me this 21st day July, 1871.

(Signed) K. LOEW,

333 *U. S. Comm'r.*

J. G. PARKER, steward, sworn for Fanny Stroop, says:

The boat traded altogether with Fanny Stroop for vegetables, eggs, &c., poultry. I was on board of the Lotawanna as steward. The bill of items is correct. The goods were received by me on board. Nothing was used to fill orders.

(Signed) J. G. PARKER.

Sworn to and subscribed before me this 21st July, 1871.

(Signed) K. LOEW, *U. S. C.*

CLAIM OF J. DAVID.

Steward Parker proves signature of the clerk to the bill in suit.

CLAIM DOUGHTY AND M'HAFFIE.

W'M DOUGHTY, sworn, says:

I am one of the libellants. Our bill is correct in dates and amounts. The boat owes us $145.28 for putting a side-dock under the boat and stopping a hole in her. The repairs were made as stated in the

334 bill, in March, 1871. The price charged is the usual and reasonable price. These repairs were necessary for the boat to make her trips. She was engaged in commerce and navigation.

Cross-examined:

I received a note in settlement, but no money. I have not got that note. Mackison, I believe, has it. I gave it to him for collection. The note was signed by Captain McComas.

(Signed) W'M DOUGHTY.

Sworn to and subscribed before me this 21st July, 1871.

(Signed) K. LOEW, *U. S. C.*

Counsel for Doughty states he will surrender the note above mentioned.

CLAIM OF T. R. BRADY.

F. MENDLING, sworn on said claim, says:

I am in Brady's employ. The bill sued on is correct in dates and amounts. Lumber furnished the boat at the dates mentioned.
335 The prices charged are reasonable. The lumber was used on board the boat. The lumber must have been necessary, otherwise they would not have ordered it. The Lotawanna was engaged in commerce and navigation. $90.66 is now due.

Cross-examined:

No payment had been made and no note has been given for this bill. The facts I have testified to I know of my own knowledge.

(Signed) F. MENDLING.

Sworn to and subscribed before me this 21st July, 1871.

(Signed) K. LOEW, *U. S. C.*

D. C. McCAN & SON'S CLAIM.

D. C. McCAN, jr., sworn, says:

I am a member of McCan & Son. The bill annexed to our libel is correct.

Cross-examined:

Received a note for a part of this bill.

CLAIM OF CAPTAIN JOHN REYNAUD.

Captain REYNAUD, sworn for himself, says:

336 I rendered the assistance detailed in my libel. The amount claimed for my services are very reasonable. They were worth double the amount. I broke a hawser worth $700 in rendering these services to the Lotawanna. These services were rendered in a very stormy night, on 2d May, 1871. Captain McComas next day gave me the order, annexed to my libel, upon E. Conery, Son & Co. for $400. This order was not paid; it has been protested. I was engaged in rendering the services to the Lotawanna during the night of the 2d May from 10 p. m. up to the whole of the next day. The Lotawanna was hard aground, as hard as she could be, when I went to her assistance. Had she not been pulled off, she would have been wrecked. The cargo of the Lotawanna I put on the Frolic, in order to lighten her. Captain McComas himself asked me for assistance. I had to lash both boats, the Frolic and the Lotawanna together, and had to pass all the landings of the Frolic in
337 order to get her freight back on the Lotawanna. It was important to me to make the landings.

Cross-examined:

Have not received one cent. Received an order upon Conery, Son & Co., which was not paid, but protested.

(Signed) JOHN REYNAUD.

Sworn to and subscribed before me this 21st July, 1871.

(Signed) K. LOEW, *U. S. C.*

JOHN ROONEY, sworn, says:

I was the mate of the Frolic on 2d May, 1871, and am so now.

On that day we were coming up the river; we saw the Lotawanna ashore on a flat bar.

At her solicitation we went to her. The captain of the Frolic made a bargain with the captain of the Lotawanna to take her off. The Frolic then hitched in to the Lotawanna.

Worked on her that night and the whole of the next day; had
338 to unload part of the Lotawanna's cargo, which we placed on the Frolic.

In pulling her off we broke the hawser of the Frolic in six different places, rendering it almost valueless.

We succeeded in getting the Lotawanna from her dangerous place. Had we not come to her assistance, it would, I think, have cost the Lotawanna over $3,000 to get off, as the water was rapidly falling there.

This happened opposite Camp Parapet, parish Jefferson.

The hawser of the Frolic was a very valuable one—$400 is a very reasonable compensation for the services of the Frolic.

(Signed) PETER ROONEY.

Sworn to and subscribed before me this 21st July, 1871.

(Signed) K. LOEW, *U. S. C.*

Adjourned till next Friday, 28th July, 1871.

Adjourned till Tuesday, 1st August, at 11.

339 District court of the U. S., district of Louisiana.

I certify that the foregoing 388 pages do contain and form a correct and complete transcript of all the proceedings had, evidence adduced, and material documents, filed in the case of W'm Doyle & al. vs. steamer Lotawanna, No. 9732 of the docket of said court.

Witness my hand and the seal of our said court, at New Orleans, this 20th April, 1872.

(Signed) CHA'S CLAIRBORNE, *Clk*,
Per K. LOEW, *D'y Clk.*

340 PROCEEDINGS IN U. S. CIRCUIT COURT.

Hearing & continuance, extract from minutes. April term, 1872.

NEW ORLEANS, *Wednesday, May 29th*, 1872.

Court met pursuant to adjournment: Present, Hon. W. B. Woods, presiding judge.

W'M DOYLE & AL. *vs.* ST'R LOTAWANNA. } No. 6718.

This cause came up on the transcript of the record from the district court; Egan and De Gray for libell'ts, appellants, Semmes and Mott for appellees—and after hearing the pleadings and evidence, the cause is continued till Friday, 31st instant, at 11 a. m.

HEARING AND SUBMISSION OF CASE.

Extract from minutes, May 31st, 1872.

W'M DOYLE & AL. vs. ST'R LOTAWANNA. } No. 6718.

This cause was resumed, and after hearing further argument, the court took time to advise.

Decree from J. B., June 3rd, 1872.

341 Circuit court of the United States fifth circuit and district of Louisiana. April term, 1872.

NEW ORLEANS, *Monday, June 3rd*, 1872.

Court met pursuant to adjournment: Present, Hon. W. B. Woods, pres'dg judge.

W'M DOYLE ET AL. vs. ST'R LOTAWANNA. } No. 6718.

For reasons orally assigned.

It is ordered that the decree rendered by the district court be avoided and reviewed, and it is ordered, adjudged, and decreed by this court that the claims of the mariners and of the furnishers of supplies and material men be recognized as privileges superior to those of the mortgage creditors, and paid in preference to the latter; and it is further ordered, that, a new distribution of the proceeds be prepared by Mr. Commissioner Loew, in accordance with the principles herein above laid down.

Decree rendered June 3rd, 1872.

Decree signed June 3rd, 1872.

(Signed) W. B. WOODS, *Judge.*

342 *Motion and order for transfer of money.—Extract for minutes June 3rd*, 1872.

W'M DOYLE & ALS. vs. ST'R LOTAWANNA. } No. 6718.

On motion of R. De Gray, esq.

Ordered that the fund in this cause now on deposit in the registry of the district court of the U. S. for Louisiana, be transfered to this court for distribution in accordance with the judgment rendered this day.

Report and judgment of distribution.—Extract from minutes June 6th 1872.

W'M DOYLE & ALS. vs. ST'R LOTAWANNA. } No. 6718.

The commissioner having submitted a distributive based upon the decree heretofore made by the court,

It is ordered and decreed that the balance of the proceeds of
343 the steamer Lotawanna, now in the registry of this court, be distributed as follows to wit:

Amount		$4,561 62
1st law charges:		
Clerk	$20 00	
Registrar	45 61	
Marshal	2 00	
H. G. Heartt	156 50	
		224 11
Leaving a balance of		$4,337 51

For distribution pro rata among the material-men and furnishers of supplies to wit:

A. D. Finlay & Co	22 50	pro rata	9 60
D. C. McCan	473 05	"	202 13
W. H. Morgan	38	"	16 25
M. F. Rust	42	"	17 94
Wallace & Co	316 53	"	135 24
Sherman & Sewell	152 35	"	65 17
E. Conery & Co	2,000 52	"	852 60
J. Hennessy	409 25	"	174 85
J. S. McDonald	2,162 70	"	922 87
J. A. Brown	314 15	"	138 02
Ruth & Larkin	105	"	44 86
So. Dry-Dock Co	302	"	129 65
M. J. Taylor	65 85	"	27 95
Fanny Stroop	94	"	40 15
John David	52 50	"	22 00
M. Shelly & Co	156 76	"	66 98
McCloskey, Bigley & Co	335	"	143 13
Miller & Wood	340	"	145 28
Wilson, Fagan & Co	971 79	"	415 24
Geo. Ellis	151	"	64 50
England, Fallon & Co	185	"	79 05
344 W. M. Surls	80 60	p' rata	34 45
H. J. Barr	100	"	42 73
C. McCormack	60	"	25 63
H. Edwards	28	"	12 06
G. G. Poinet	68	"	29 05
W. B. Ross	35	"	14 95
Patterson & Dodez	218 30	"	93 28
Doughty & McHaffie	145 25	"	61 90
Tho's Brady	96 66	"	41 30
Tho's Forrester	175 75	"	73 80
D. Hughes	393 98	"	168 35
S. B. Henderson	63 48	"	27 15
	$10,151 97		$4,337 51

Petition for appeal and order.—Filed June 15th, 1872.

Circuit court of the United States for the fifth circuit and district of Louisiana.

WILLIAM DOYLE & WILLIAM DIXON, *vs.* THE STEAMBOAT LOTAWANNA, &c., &c. } No. 6718. In admiralty & on appeal.

In which case Catharine Ann Rodd, administratrix of the suc-
345 cession of Edward W. Rodd, John E. Rodd, and James T. Rodd, the said Edwin W., John E., and James T. Rodd, having formed the commercial firm of E. W. Rodd & Sons, Arthur Poincy and Benjamin Poincy, composing the firm of A. Poincy and Son; Michael Shelly and William O. Hern, composing the firm of M. Shelly and Co.; Theophilus Prudomme, and John F. H. Grace, who compose the firm of Prudhomme and Grace; George Martin, William Dillon, and of Henry T. Lawler and William H. Selby, who compose the firm of Lawler and Selby, all of whom are petitioners and intervenors pro interesse suo in the foregoing proceeding in admiralty, wherein Henry G. Heartt is an intervenor claiming fees as an appraiser, and the following-named persons are intervening libellants as material-men and furnishers of supplies, viz: David C. McCan, William H. Morgan, M. F. Rust, John Hennesey, J. Sharpe McDonald, Joseph A. Brown, the Southern Dry-Dock Company, M. J. Taylor, Fanny Stroop, John David, M. Shelly & Co.,
346 composed of Michael Shelly and William O'Hern, as copartners; George Ellis, W. M. Surls, H. J. Barr, C. McCormack, H. Edwards, G. G. Poinet, W. B. Ross, Thomas R. Brady, Thomas R. Forster, David Hughes, S. B. Henderson, Frederick W. Rust, Edward Conery & Co. a firm composed of Edward Conery, J. H. Menge and Edward Conery, jr.; Ruth and Larkin, a firm composed of John Ruth and Larkin; Thomas Sewell, John M. Sherman, Miller and Wood, composed of George Miller and M. N. Wood; McCloskey, Bigley & Co. composed of P. G. and A. J. Bigley; England, Tallon & Co., composed of Richard England and William Tallon; Wilson Fagan & Co. composed of Samuel Wilson, William Fagan, and Benjamin F. Miller; Lagan and Mackison, composed of Mathew D. Lagan and James Mackison; Doughty and McHaffie, composed of William Doughty and Jessee McHaffie; A. D. Finlay & Co., composed of A. D. Finlay and T. Borderare; Wallace & Co., com-
347 posed of David Wallace and James Wallace; Patterson and Dodez, composed of Robert B. Patterson and Daniel J. Dodez, and Philip B. Fouke, administrator of the succession of Harry G. McComas, intervenor claiming the fund from the sale of the boat as the property of the succession of the owner of the boat.

The above-named petitioners and intervenors pro interesse suo, Catharine Ann Rodd, Edwin W. Rodd, James T. Rodd, Arthur Poincy, Benjamin Poincy, Michael Shelly, William O. Herns, Theophilus Prudhomme, John F. H. Grace, Geo. Martin, William Dillon, Henry T. Lawler, and William H. Shelly, conceiving themselves aggrieved by the final sentence or decree entered the third and made final on the 6th day of June, 1872, in the above-entitled cause, do hereby take a suspensive appeal therefrom to the Supreme Court of the United States, to operate as a supersedeas; and they pray that this, their appeal, may be allowed, and that a transcript of the record, proceedings, and evidence in the cause, duly authenticated, may be sent to said Supreme Court.

348 (Signed) SEMMES AND MOTT, *Proctors.*

It is ordered and decreed that the balance of the proceeds of
343 the steamer Lotawanna, now in the registry of this court, be distributed as follows to wit:

Amount		$4,561 62
1st law charges:		
Clerk	$20 00	
Registrar	45 61	
Marshal	2 00	
H. G. Heartt	156 50	
		224 11
Leaving a balance of		$4,337 51

For distribution pro rata among the material-men and furnishers of supplies to wit:

A. D. Finlay & Co	22 50	pro rata	9 60
D. C. McCan	473 05	"	202 13
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E. Conery & Co	2,000 52	"	852 60
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J. S. McDonald	2,162 70	"	922 87
J. A. Brown	314 15	"	138 02
Ruth & Larkin	105	"	44 86
So. Dry-Dock Co	302	"	129 65
M. J. Taylor	65 85	"	27 95
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Miller & Wood	340	"	145 28
Wilson, Fagan & Co	971 79	"	415 24
Geo. Ellis	151	"	64 50
England, Fallon & Co	185	"	79 05
344 W. M. Surls	80 60	p' rata	34 45
H. J. Barr	100	"	42 73
C. McCormack	60	"	25 63
H. Edwards	28	"	12 06
G. G. Poinet	68	"	29 05
W. B. Ross	35	"	14 95
Patterson & Dodez	218 30	"	93 28
Doughty & McHaffie	145 25	"	61 90
Tho's Brady	96 66	"	41 30
Tho's Forrester	175 75	"	73 80
D. Hughes	393 98	"	168 35
S. B. Henderson	63 48	"	27 15
	$10,151 97		$4,337 51

Order.

An appeal is allowed in this case as prayed for and, according to law, returnable to the Supreme Court of the United States the 1st Monday of December next, the appellants giving bond and security according to law.

June 15th, 1872.

(Signed) E. H. DURELL, *Judge.*

Bond for appeal.—Filed June 15th, 1872.

W'M BOYLE ET AL. vs. ST'R LOTAWANNA. } 6718.

Know all men by these presents, that we, Catharine Ann Rodd, administratrix of the succession of Edwin W. Rodd, John E. Rodd, James T. Rodd, Arthur Poincy, Benjamin Poincy, Michael Shelly, William O. Hern, Theophilus Prudhomme, John F. H. Grace, George Martin, William Dillon, Henry T. Lawler, and William H. Selby, as prin-
349 cipal, and Peter Hermann as security, are held and firmly bound, jointly and severally, unto Henry G. Heartt, Dan'l C. McCan, William H. Morgan, Frederick W. Rust, John Hennessy, J. Sharpe McDonald, Joseph A. Brown, the Southern Dry-Dock Company, M. J. Taylor, Fanny Stroop, John David, Michael Shelly, William O'Heru, who compose the firm of M. Shelly & Co., George Ellis, William M. Surls, Hamilton J. Baer, Charles McCormack, H. Edwards, G. G. Poinet, W. B. Ross or B. M. Ross, Thomas R. Brady, Thomas Forrester, David Hughes, S. B. Henderson, Edward Conery & Co., composed of Edward Conery, J. H. Menge, Edward Conery, jr., Ruth & Larkin, composed of John Ruth and Larkin, Thomas Sewell, John M. Sherman, Miller & Wood, composed of George Miller and M. N. Wood, McCloskey, Bigley & Co., composed of P. G. and A. G. Bigley, and England, Tallon & Co., composed of Richard England and William Tallon, Wilson Fagan & Co., composed of Samuel Wilson, William Fagan, and
350 Benjamin F. Miller, Lagan and Mackison, composed of Mathew D. Lagan and James Mackison; Doughty and McHaffie, composed of William Doughty and Jessie McHaffie; A. D. Finlay & Co., composed of A. D. Finlay and T. Borderare; Wallace & Co., composed of David Wallace and James James Wallace; Patterson and Dodez, composed of Robert B. Patterson and Daniel J. Dodez, and Philip B. Fouke, administrator of the succession of Harry McComas, in the sum of one thousand dollars, lawful money of the United States of America, to be paid to the said Henry G. Heartt, David C. McCan, William H. Morgan, Frederick W. Rust, John Hennesy, J. Sharpe McDonald, Joseph A. Brown, the Southern Dry Dock Company, M. J. Taylor, Fanny Stroop, John David, M. Shelly & Co., George Ellis, W. M. Surls, H. J. Baer, Charles McCormack, H. Edwards, G. G. Poinet, W. B. Ross or B. M. Ross, Thomas R. Brady, Tho's Forrester, David Hughes, S. B. Henderson, Edward Conery & Co., Ruth and Larkin, Tho's Sewell,
351 J. M. Sherman, Miller and Wood, McCloskey, Bigley & Co., England, Tallon & Co., Wilson Fagan & Co., Lagan and Mackison, Doughty, and McHaffie, A. D. Finlay & Co., Wallace & Co., Patterson and Dodez, Philip B. Fouke, administrator of the succession of H. G. McComas, their heirs, executors, administrators, and assigns, for which payment well and duly to be made, we bind ourselves and each of us by himself,

343 It is ordered and decreed that the balance of the proceeds of the steamer Lotawanna, now in the registry of this court, be distributed as follows to wit:

Amount		$4,561 62
1st law charges:		
Clerk	$20 00	
Registrar	45 61	
Marshal	2 00	
H. G. Heartt	156 50	
		224 11
Leaving a balance of		$4,337 51

For distribution pro rata among the material-men and furnishers of supplies to wit:

A. D. Finlay & Co	22 50	pro rata	9 60
D. C. McCan	473 05	"	202 13
W. H. Morgan	38	"	16 25
M. F. Rust	42	"	17 94
Wallace & Co	316 53	"	135 24
Sherman & Sewell	152 35	"	65 17
E. Conery & Co	2,000 52	"	852 60
J. Hennessy	409 25	"	174 85
J. S. McDonald	2,162 70	"	922 87
J. A. Brown	314 15	"	138 02
Ruth & Larkin	105	"	44 86
So. Dry-Dock Co	302	"	129 65
M. J. Taylor	65 85	"	27 95
Fanny Stroop	94	"	40 15
John David	52 50	"	22 00
M. Shelly & Co	156 76	"	66 98
McCloskey, Bigley & Co	335	"	143 13
Miller & Wood	340	"	145 28
Wilson, Fagan & Co	971 79	"	415 24
Geo. Ellis	151	"	64 50
England, Fallon & Co	185	"	79 05
344 W. M. Surls	80 60	p' rata	34 45
H. J. Barr	100	"	42 73
C. McCormack	60	"	25 63
H. Edwards	28	"	12 06
G. G. Poinet	68	"	29 05
W. B. Ross	35	"	14 95
Patterson & Dodez	218 30	"	93 28
Doughty & McHaffie	145 25	"	61 90
Tho's Brady	96 66	"	41 30
Tho's Forrester	175 75	"	73 80
D. Hughes	393 98	"	168 35
S. B. Henderson	63 48	"	27 15
	$10,151 97		$4,337 51

Petition for appeal and order.—Filed June 15th, 1872.

Circuit court of the United States for the fifth circuit and district of Louisiana.

WILLIAM DOYLE & WILLIAM DIXON, *vs.* THE STEAMBOAT LOTAWANNA, &C., &C. } No. 6718. In admiralty & on appeal.

In which case Catharine Ann Rodd, administratrix of the suc-
345 cession of Edward W. Rodd, John E. Rodd, and James T. Rodd, the said Edwin W., John E., and James T. Rodd, having formed the commercial firm of E. W. Rodd & Sons, Arthur Poincy and Benjamin Poincy, composing the firm of A. Poincy and Son; Michael Shelly and William O. Hern, composing the firm of M. Shelly and Co.; Theophilus Prudomme, and John F. H. Grace, who compose the firm of Prudhomme and Grace; George Martin, William Dillon, and of Henry T. Lawler and William H. Selby, who compose the firm of Lawler and Selby, all of whom are petitioners and intervenors pro interesse suo in the foregoing proceeding in admiralty, wherein Henry G. Heartt is an intervenor claiming fees as an appraiser, and the following-named persons are intervening libellants as material-men and furnishers of supplies, viz: David C. McCan, William H. Morgan, M. F. Rust, John Hennesey, J. Sharpe McDonald, Joseph A. Brown, the Southern Dry-Dock Company, M. J. Taylor, Fanny Stroop, John David, M. Shelly & Co.,
346 composed of Michael Shelly and William O'Hern, as copartners; George Ellis, W. M. Surls, H. J. Barr, C. McCormack, H. Edwards, G. G. Poinet, W. B. Ross, Thomas R. Brady, Thomas R. Forster, David Hughes, S. B. Henderson, Frederick W. Rust, Edward Conery & Co. a firm composed of Edward Conery, J. H. Menge and Edward Conery, jr.; Ruth and Larkin, a firm composed of John Ruth and Larkin; Thomas Sewell, John M. Sherman, Miller and Wood, composed of George Miller and M. N. Wood; McCloskey, Bigley & Co. composed of P. G. and A. J. Bigley; England, Tallon & Co., composed of Richard England and William Tallon; Wilson Fagan & Co. composed of Samuel Wilson, William Fagan, and Benjamin F. Miller; Lagan and Mackison, composed of Mathew D. Lagan and James Mackison; Doughty and McHaffie, composed of William Doughty and Jessee McHaffie; A. D. Finlay & Co., composed of A. D. Finlay and T. Borderare; Wallace & Co., com-
347 posed of David Wallace and James Wallace; Patterson and Dodez, composed of Robert B. Patterson and Daniel J. Dodez, and Philip B. Fouke, administrator of the succession of Harry G. McComas, intervenor claiming the fund from the sale of the boat as the property of the succession of the owner of the boat.

The above-named petitioners and intervenors pro interesse suo, Catharine Ann Rodd, Edwin W. Rodd, James T. Rodd, Arthur Poincy, Benjamin Poincy, Michael Shelly, William O. Herns, Theophilus Prudhomme, John F. H. Grace, Geo. Martin, William Dillon, Henry T. Lawler, and William H. Shelly, conceiving themselves aggrieved by the final sentence or decree entered the third and made final on the 6th day of June, 1872, in the above-entitled cause, do hereby take a suspensive appeal therefrom to the Supreme Court of the United States, to operate as a supersedeas; and they pray that this, their appeal, may be allowed, and that a transcript of the record, proceedings, and evidence in the cause, duly authenticated, may be sent to said Supreme Court.

348 (Signed) SEMMES AND MOTT, *Proctors.*

Order.

An appeal is allowed in this case as prayed for and, according to law, returnable to the Supreme Court of the United States the 1st Monday of December next, the appellants giving bond and security according to law.

June 15th, 1872.

(Signed) E. H. DURELL, *Judge.*

Bond for appeal.—Filed June 15th, 1872.

WM BOYLE ET AL. vs. ST'R LOTAWANNA. } 6718.

Know all men by these presents, that we, Catharine Ann Rodd, administratrix of the succession of Edwin W. Rodd, John E. Rodd, James T. Rodd, Arthur Poincy, Benjamin Poincy, Michael Shelly, William O. Hern, Theophilus Prudhomme, John F. H. Grace, George Martin, William Dillon, Henry T. Lawler, and William H. Selby, as prin-
349 cipal, and Peter Hermann as security, are held and firmly bound, jointly and severally, unto Henry G. Heartt, Dan'l C. McCan, William H. Morgan, Frederick W. Rust, John Hennessy, J. Sharpe McDonald, Joseph A. Brown, the Southern Dry-Dock Company, M. J. Taylor, Fanny Stroop, John David, Michael Shelly, William O'Hern, who compose the firm of M. Shelly & Co., George Ellis, William M. Surls, Hamilton J. Baer, Charles McCormack, H. Edwards, G. G. Poinet, W. B. Ross or B. M. Ross, Thomas R. Brady, Thomas Forrester, David Hughes, S. B. Henderson, Edward Conery & Co., composed of Edward Conery, J. H. Menge, Edward Conery, jr., Ruth & Larkin, composed of John Ruth and Larkin, Thomas Sewell, John M. Sherman, Miller & Wood, composed of George Miller and M. N. Wood, McCloskey, Bigley & Co., composed of P. G. and A. G. Bigley, and England, Tallon & Co., composed of Richard England and William Tallon, Wilson Fagan & Co., composed of Samuel Wilson, William Fagan, and
350 Benjamin F. Miller, Lagan and Mackison, composed of Mathew D. Lagan and James Mackison; Doughty and McHaffie, composed of William Doughty and Jessie McHaffie; A. D. Finlay & Co., composed of A. D. Finlay and T. Borderare; Wallace & Co., composed of David Wallace and James James Wallace; Patterson and Dodez, composed of Robert B. Patterson and Daniel J. Dodez, and Philip B. Fouke, administrator of the succession of Harry McComas, in the sum of one thousand dollars, lawful money of the United States of America, to be paid to the said Henry G. Heartt, David C. McCan, William H. Morgan, Frederick W. Rust, John Hennesy, J. Sharpe McDonald, Joseph A. Brown, the Southern Dry Dock Company, M. J. Taylor, Fanny Stroop, John David, M. Shelly & Co., George Ellis, W. M. Surls, H. J. Baer, Charles McCormack, H. Edwards, G. G. Poinet, W. B. Ross or B. M. Ross, Thomas R. Brady, Tho's Forrester, David Hughes, S. B. Henderson, Edward Conery & Co., Ruth and Larkin, Tho's Sewell,
351 J. M. Sherman, Miller and Wood, McCloskey, Bigley & Co., England, Tallon & Co., Wilson Fagan & Co., Lagan and Mackison, Doughty, and McHaffie, A. D. Finlay & Co., Wallace & Co., Patterson and Dodez, Philip B. Fouke, administrator of the succession of H. G. McComas, their heirs, executors, administrators, and assigns, for which payment well and duly to be made, we bind ourselves and each of us by himself,

and each of our heirs, executors, and administrators, firmly by these presents, sealed with our seals and dated the 15th day of June, in the year of our Lord eighteen hundred and seventy-two.

Whereas Catharine A. Rodd, administratrix of the succession of Edward W. Rodd, John E. Rodd, James T. Rodd, Arthur Poincy, Benjamin Poincy, Michael Shelly, William O. Hern, Theophilus Prudhomme, John F. H. Grace, George Martin, William Dillon, Henry T. Lawler, and William H. Selby, have, this day, presented a petition or motion to the honorable the circuit court of the United States for the fifth
352 circuit, holding sessions in and for the district of Louisiana, praying an appeal to the Supreme Court of the United States in the case of W'm Doyle & al. vs. Steamboat Lotawanna, &c., No. 6718, on the docket of said court.

Now, the condition of the above obligation is that we, the above-bounden Edwin W. Rodd, John E. Rodd, James T. Rodd, Arthur Poincy, Benjamin Poincy, Michael Shelly, William O. Hern, Theophilus Prudhomme, John F. H. Grace, George Martin, William Dillon, Henry T. Lawler, and William H. Selby, will well and truly pay to the said Henry G. Heartt, D. C. McCan, and the other aforesaid intervening libellants, and the said P. B. Fouche, administrator, all such damages as they may recover against us in case it should be decided that the said appeal was wrongfully obtained.

CATHARINE A. RODD,
Administrator of Edwin W. Rodd.
JOHN E. RODD.
JAMES T. RODD.
ARTHUR POINCY.
BENJAMIN POINCY.
353 MICHAEL SHELLY.
WILLIAM O. HERN.
THEOPHILUS PRUDHOMME.
JOHN F. H. GRACE.
GEORGE MARTIN.
WILLIAM DILLON.
HENRY T. LAWLER,
AND WILLIAM H. SELBY.
(Signed) PETER HERMANN. [SEAL.]

Signed, sealed, and delivered in the presence of—
(Signed) SEMMES & MOTT,
Proctors.

Approved, June 19th, 1872.
(Signed) JOS. P. BRADLEY,
Asso. Justice of Sup. Court.

354 UNITED STATES OF AMERICA,
Circuit Court of the United States,
Fifth Circuit and District of Louisiana:

CLERK'S OFFICE.

I, Francis A. Woolfley, clerk of the circuit court of the United States, for fifth circuit and district of Louisiana, do hereby certify that the foregoing 353 pages contain and form a full, complete, true, and perfect transcript of the record and proceedings had, together with all the evidence adduced on the trial of the case of William Doyle et al. vs.

Steamer Lotawana, No. 6718 of the docket, so far as the same now remain of record or on file in said court.

Witness my hand and the seal of said court, at the city of New Orleans, this 2d day of November, A. D. 1872.

[SEAL.] F. A. WOOLFLEY, *Clerk.*

I, E. H. Durell, United States judge for the district of Louisiana, do hereby certify that Francis A. Woolfley, whose name is signed to the above certificate as clerk of the circuit court of the United States for the fifth circuit and district of Louisiana, was, at the time of signing said certificate, and is now, the clerk of said court; that said certificate is in due form of law; and that full faith and credit are due to his official attestations as such clerk.

Given under my hand, at the city of New Orleans, in said district, this 2d day of November, A. D. 1872.

E. H. DURELL, *Judge.*

(Indorsement on cover:) No. 484. Catharine A. Rodd, adm'x of the succession of Edward W. Rodd et al., appellant, vs. Henry G. Heartt, D. C. McCan & al, and The Proceeds of the Sale of the Steamer Lotawanna. Louisiana C. C. U. S. Filed 26 November, 1872.

Supreme Court of the United States.

E. W. Rodd & Son, *et al.*, Appellants,
vs.
H. G. Heart, *et al.*, Appellees.
} No.

I.

Abstract of the Case.

The steamboat Lottawanna, which had been engaged in navigating the waters of the Mississippi and Red rivers in the State of Louisiana, was libelled *in rem* at the instance of the mariners for wages. No claim was made, and no answer filed. The boat was sold, and the price, seven thousand five hundred dollars, ($7,500,) deposited in the registry, out of which sum the mariners were paid; and there remains a sum of four thousand three hundred thirty-seven and $\frac{51}{100}$ dollars, ($4,337 51,) which is to be paid to the mortgage creditors of the boat, or the furnishers of supplies at the home port of the boat, as may be decreed on the final determination of the case.

H. G. McComas, being the owner of the Lottawanna on the 20th of May, 1871, granted a mortgage in favor of G. W. Rodd & Son and others for a sum exceeding eight thousand dollars ($8,000) on the boat, her tackle, apparel, furniture, &c., which was in form of law, and duly recorded in pursuance of the act of Congress of July 29, 1850, on the 27th of May, 1871.

II.

Assignment of Error.

These mortgage creditors petitioned to be paid the remnant in the registry *pro intresse suo*, and D. C. McCann, W. H. Morgan, *et al.*, claim the same by intervening libels as furnishers of supplies; for which they aver they have a

privilege by the statute law of the State of Louisiana, where the supplies were furnished.

The contest is therefore between the mortgage creditors and the furnishers of supplies.

The circuit court decreed the fund to the furnishers of supplies, and the mortgagees are the appellants before the court.

1. The XIIth rule in admiralty, when the libel was filed on the 10th June, 1871, allowed a proceeding *in personam*, but not *in rem*, for supplies furnished to domestic ships.

When the case was decided in the circuit court, on the 3d June, 1872, the rule had been altered, and in all suits by material men for supplies, &c., the libellant might proceed *in rem* or *in personam*.

The court erred in giving effect to the rule as altered, and in giving the fund arising from the sale of property mortgaged to the material men, instead of applying them to the satisfaction of the mortgage.

2. The material men are not shown to have had a privilege by the laws of Louisiana; and it was in error that the court gave them the fund in the registry.

III.

Argument.

There is no dispute as to the lien of the mortgage creditors. Therefore the only question is whether the material men were entitled to a priority over the mortgage.

By the law of Louisiana, all privileges and liens must be recorded, to have effect against third persons, which was not done by any of the material men before the court.

The constitution of Louisiana says, (art. 123:)

"But no mortgage or privilege shall hereafter affect third parties, unless recorded in the parish where the property to be affected is situated."

The law of Louisiana says, (Revised Civil Code, art. 3237:)

"The following debts are privileges on the price of ships and other vessels in the order in which they are placed:

"8. Sums due to sellers: to those who have furnished

materials, and to workmen employed in the construction, if the vessel has never made a voyage, and those due to creditors for supplies, labor, repairing, victuals, armament, and equipment."

Art. 3273. "Privileges are valid against third persons from the date of the recording of the act or evidence of indebtedness, as provided by law.

Art. 3274. "No privilege shall have effect against third persons unless recorded, in the manner required by law, in the parish where the property to be affected is situated. It shall confer no preference on the creditor who holds it over creditors who have acquired a mortgage, unless the act or other evidence of the debt is recorded on the day that the contract was entered into."

Revised Statutes, p. 604.

Sec. 3093. "All persons entitled to a mortgage or privilege on the property of another person shall cause such mortgage or privilege to be recorded in the mortgage book of the parish in which the mortgageable property is situated. If the mortgage or privilege be a notarial or public act, the same shall be recorded; if it be an act under private signature, note, or other obligation in writing, it must be proved up and recorded as a private signature act; *if the same be not in writing*, the person claiming the mortgage or privilege, his agent, or some person having knowledge of the fact, must make affidavit of all the facts on which it is based, stating the amount and all the necessary facts, which affidavit shall be recorded in the mortgage book as other acts of mortgage or privilege."

All privileges must, before they can have effect in Louisiana as liens, be recorded.

White, admr. *v.* Bird, 23 Annual Reports, 270.
Foley *v.* Hyan, 23 Annual Reports, 286.
Beard *v.* Chappell, 23 Annual Reports, 695.
Marmillion *v.* Archinard, 24 Annual Reports, 612.
Leb *v.* Blum, 25 Annual Reports, 232.

The decree of the circuit court should be reversed, and in favor of the appellants.

Respectfully submitted,

THOMAS J. SEMMES,
Of Counsel for Appellant.

Supreme Court of the United States

No. ——.

WILLIAM DOYLE ET AL.—E. W. RODD & SON ET AL.,

APPELLANTS,

vs.

STEAMBOAT LOTTAWANNA—THOS. SEWELL ET AL.,

APPELLEES.

The motion to dismiss the appeal in this case is not well taken; for—

1st. It is immaterial who granted the appeal, or whether a motion or petition for appeal was entered or filed, "an appeal was prayed, and subsequently the appeal bond was filed in the Court, and approved by one of the Judges of the Court." Railroad Company vs. Bradleys, 7 Wallace, 577. The prayer for appeal was to the Circuit Court, and was granted by the Circuit Court; the motion need not be in writing. 18 How. 530.

2. The Act of 1789 gives the right of writ of error, while the Act of 1803 gives an appeal "where the matter in dispute exceeds the sum or value of two thousand dollars, exclusive of costs."

What is the amount in dispute?

E. W. Rodd & Son claim..... ..... $4,825 47.

Besides these, there are other mortgage, creditors whose claims are in the aggregate over..... 8,000 00.

What is the amount of the fund to be distributed among the intervening libellants, or applied to the satisfaction of the mortgages?

It is correctly stated by the Proctor moving to dismiss the appeal, to be 4,337 51

Thus, as the amount claimed by Rodd & Son, and the fund to be distributed, is greater than the amount required to give this Court jurisdiction of the appeal, we do not see on what ground the appeal can be dismissed. Clearly not as to Rodd & Son, and not as to the mortgagees, who claim their lien and privilege in virtue of one mortgage, evidencing one contract in favor of several joint beneficiaries. See

Rich vs. Lambert, 12 How., 353.

Cox vs. The United States, 6 Peters, 143.

Spear vs. Place, 11 How., 523.

3. The appeal was taken in time; there was no final decree until the 6th June, and the appeal bond was filed and approved on the 15th June.

When the appeal is to be immediately executed by the delivery of property or payment of money, the ten days mean from its rendition, otherwise the right is delayed for settlement of the decree.

Forgay vs. Conrad, 6th How., 204.

Thompson vs. Dean, 7 Wall., 345.

Silsby vs. Foote, 20 How., 295.

But the case at bar is not governed, by the Act of 1789 or 1803. The Act of 1872 allows sixty days in which to take an appeal with supersedeas, which time had not expired when the present appeal was taken. The bond was filed the fifteenth June, and operated an appeal, with supersedeas.

No motion was necessary.

Railroad Co. vs. Bradley, 7 Wall, 577.

Need not be in writing. 18 How., 530.

The approval of the bond is the appeal. The Act of 1789 says: "Every Judge or Justice signing a citation of error shall take good and sufficient security." 1 Brightly 258, 260, § 7. Appeals the same as error. 1 Brightly, 261, § 8. Act 3d March, 1803: And sixty days being allowed for filing the bond, and

the appeal being granted, by signing the citation of appeal and approving the bond, is conclusive of the present motion.

It would be a vain thing to make a motion of appeal within ten days, and keep the appeal in suspense for sixty days for filing of the bonds. There is no appeal until the bond is filed and approved, whether the appeal is with or without supersedeas; and as the appeal is perfected by the approval and signing of the bond, it is immaterial whether there was a preceding motion or not.

Respectfully submitted,

THOS. J. SEMMES,

Proctor of Appellants.

IN THE

SUPREME COURT OF THE UNITED STATES.

No. 33.

CATHERINE A. RODD, Administratrix, et al.,
APPELLANTS,

vs.

HENRY G. HEARTT,
D. C. McCAN et al.,
APPELLEES.

In the brief filed by counsel for appellees, it is stated, that the counsel for appellants misrepresented the law of Louisiana on the subject of mortgages of vessels. By referring to the law as it stood in the month of May, 1872, it will be seen that the Revised Statutes of that State, adopted in 1870, contains these words: "Sec. 2393. In addition to the "conveyances and securities now allowed by the "laws of this State, all bills of sale, mortgages, "hypothecations and conveyances of ships, steam-"boats and other vessels, or parts thereof, made in "good faith, and for a valuable consideration, shall "be valid, and the record thereof, if of vessels of "the United States, according to the laws of the

"United States, and if of a foreign state, according "to the laws of such state, shall be notice to all "persons." This is the re-enactment of the act of the Legislature of Louisiana, approved 23d February, 1869, being act No. 36 of that year, and to be found at page 35 of said acts.

It is true that previous to 1869, the statutes of Louisiana gave no right to mortgage a ship or vessel, other than according to the laws and usages of commerce; but the law was then changed and made to conform to the laws of the United States, and it is surprising that any member of the bar of Louisiana should deliberately twice deny in writing that which is patent from an examination of the statutes of the State.

Respectfully submitted,

THOMAS J. SEMMES,
ROBERT MOTT,
Of Counsel for Appellants.